PUNJAB

LAND ADMINISTRATION MANUAL.

COMPILED BY

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PREFACE TO THE SECOND EDITION

1 The first edition of this Manual was compiled by Sir James Douie in 1908 on the orders of the Punjab Government. Though not professing to be authoritative for matters of opinion it was issued after examination by the Financial Commissioner and with the approval of the Punjab Government, as a guide to revenue officers. The Manual included much matter which was originally in the old Revenue circulars and the old Land Revenue rules.

2 The instructions in the old Revenue circulars and the old Land Revenue rules have since been replaced by the Financial Commissioners' Standing Orders and the rules under the Punjab Land Acts, and all references to them have now been brought into line with existing policy.

3 Advantage has also been taken of the opportunity to incorporate the various changes brought about by the introduction of the reforms, and accordingly in some instances new matter has been inserted while in others some paragraphs have been recast and some omitted altogether.

4 The numbering of the paragraphs in the first edition has been retained, and all new matter has been distinguished by the letters A, B and C or (i), (ii) and (iii) after the paragraph number.

5 Appendix I has been omitted entirely, as all the matter that it contained is now given in the rules under the Punjab Land Acts, in the Financial Commissioners' Standing Order No 61, and in the Rules and Orders of the High Court, volume I, chapter II section XXI.

6 The revision of the Manual has not been so thorough-going as it would have been, were it not for the financial stringency and dearth of officers. In intention this Manual is confined to general questions of history and policy while detailed instructions are relegated to Standing Orders; but it cannot be said that this distinction has been observed on entirely uniform lines, and revenue officers must refer both to this Manual and to the Standing Orders, before they can feel sure that they have before them the whole of the instructions on any given subject.

1st *October* 1931

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CHAPTER I

INTRODUCTORY

Land revenue not a tax but rent payable to the State?

IN the first edition of this work it was contended that the land revenue was a rent and not a land tax, and this view has been retained in the opening paragraphs of the fourth edition of the Settlement Manual This is not the place to embark upon a summary of the prolonged controversy on the subject, the question was examined with care by the Indian Taxation Enquiry Committee of 1926 which found itself unable to arrive at any agreed finding As that Committee pointed* out ' according to the description given by Manu of the fiscal administration of an ancient Hindu State the main source of the State revenue was a share of the gross produce of all land, varying according to the il and the labour necessary to cultivate it In normal times the share aried between one twelfth and one sixth, but was liable to rise even o one fourth in times of war or other public calamity The revenue as collected, not from individual cultivators, but from the mmunity represented by the headman In the early ys of the Muhammadan administration the State share of the gross duce demanded by the Hindu kings was converted into the aj or tribute payable on land in countries under Muhammadan , though the share taken was greater than before The Committee nd that the land revenue has ceased to represent a portion of the oss produce that in the Punjab the Government demand s theoretically based on an economic rent but actually takes many other factors into consideration ' Under both Hindu and Muhammadan rule the State never claimed the absolute or exclusive ownership of the land and definitely recognised the existence of private property in it †

The general finding of the Committee was that in some cases the revenue was a pure rent and in others it is more difficult to maintain this view In this province the theory still holds that the revenue is of the nature of a rent charged by the State as overlord of the land

Collector a land steward

2 The officer entrusted with the duty of realizing the land revenue is not a mere rent collector especially in provinces like the Punjab, where the demand is fixed for a period only, and the State continues to have a direct and immediate interest in the improvement

*See paragraph 53 of this manual

†See paragraph 80 of this manual

of the land His position is rather that of the steward of a great landowner As such, he is bound to respect, and preserve from encroachment by others every private right in the soil which has been created or confirmed by the State Where the revenue has been fixed for a term only, he has not only to collect it, but also to look forward to a time when it will be revised, and to collect and record in a systematic manner statistical information which will facilitate its equitable reassessment He must initiate and assist measures to prevent, so far as may be, the loss of crops from causes which are in any degree controllable by man, and must prepare in ordinary times for those graver natural calamities which produce intense and widespread scarcity of food He must encourage and assist every effort made by right holders for the development of their estates In many parts of the province such as the colony districts, the State is not only supreme landowner of the soil generally, but also sole landowner of a considerable part of it, and it is the duty of its local representative to administer this property so that it may be profitable to the State as representing the people as a whole, and, at the same time, beneficial to the colonists, whose prosperity is the first care of a progressive Government

Scope of handbook

3 It is the object of this handbook to describe how these various functions can best be carried out by the officer in charge of a district As a revenue officer, he is legally known as the Collector, but the more familiar title of Deputy Commissioner will generally be used in this work His functions will be described in the several capacities in which he is called upon to act—

(1) As a recorder of agricultural statistics,

(2) As a guardian and registrar of the rights in the soil enjoyed by private persons

(3) As a collector of the land revenue

(4) As a promoter of the stability and improvement of landed property,

(5) As a custodian of State property,

(6) As a judge between landlords and tenants

The head of a district has many other important duties to perform, but the discussion in this work is confined to his function in connection with the administration of the land

BOOK I.—Landlords, Tenants and Assignees

CHAPTER II

Landowners and Tenants

Rural communities

4 Before describing the machinery of the administration, it is well to say something of the agricultural communities for whose benefit mainly it exists The reader is supposed to be familiar with the chapters in the Settlement Manual which deal with "Tenures and the Rights of Landowners" and "The Rights of Tenants"* The former may usefully be supplemented by some account of the law of pre-emption applicable to village lands and of the important restrictions imposed upon landowners of the agricultural class by the passing of the Punjab Alienation of Land Act, XIII of 1900

Punjab a country of peasant landowners

5 The Punjab is essentially an agricultural country one half of which is owned and tilled by peasant landowners There are a few large proprietors in most districts but in the whole province the number who pay more than Rs 500 land revenue is less than 2,500 The majority of owners holdings in the plains are less than ten acres, in the hills they are mostly under three acres The bulk of the population of the Punjab consists of landowners and their dependants and their prosperity and contentment must always be the chief solicitude of Government

Dangers to peasant ownership from division of holdings and disappropriation by money lenders

6 There are two grave economic dangers which beset the ownership of land in small parcels by peasant proprietors The first of these is the reduction of the size of many holdings below an area sufficient to support a family in comfort This is due to the operation of the law of inheritance under which sons on the death of their father, each take an equal share of the family land It is easy to exaggerate the effect of this law Most small owners are able to get additional land on rent and where means of livelihood are scanty, the difficulties in finding brides are apt to prove insuperable Apart from the unpopular remedy of interfering with the law of inheritance, there are indirect means of mitigating the evil of over population One has been found in the colonization of large tracts of State land rendered culturable by the construction of new canals Another has been the increasing diversification of occupations in towns

The second, and more serious, danger was the transfer of land by sale and mortgage to those whose outlook on life prevented them from cultivating it with their own hands †

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*Chapters VIII and IX The former may be usefully supplemented by 'Tribal Law in the Punjab by Roe and Rattigan 4th edition As regards the other classes found in village communities—the grain dealers artisans and menials—see paragraphs 130, 338 and 390 and as regards rents see paragraphs 311 312, 3[illegible]2 339 344 and 355 of the Settlement Manual 4th edition

†See in connection with this subject, paragraphs 379—381 and 402—406 of the Settlement Manual 4th edition

Oscillations of opinion on subject.

7 The political advantage of maintaining the existing frame work of society, and of keeping the land in the hands of those whose hereditary occupation was tillage was fully recognized by the first administrators of the Punjab There followed a time in which the importance of this object was less keenly felt and the possibility of attaining it was denied The third phase of opinion which is that now predominant regards the expropriation of the old landowning tribes with at least as much aversion as did the earliest administrators of the province maintaining that it is not only politically, but also economically disadvantageous The causes of these remarkable oscillations of opinion form a curious chapter in the revenue history of the Punjab which may be noticed briefly before describing the actual provisions in force at different times regarding pre-emption and restrictions on the transfer of land

Apologetic tone adopted by early administrators as to measures adopted to preserve stability of village communities

8 While experience acquired elsewhere led shortly after annexation to the [illegible] prevent the intrusion of aliens into [illegible] purchase of land some of the able [illegible] measures were open to the reproach of economic unsoundness and that the prospect of agricultural improvement by the attraction to the soil of the capital of the moneyed classes was being sacrificed to the importance of political stability In his commentary on the Punjab Civil Code Mr Montgomery felt constrained to apologize for the maintenance of the law of pre-emption. Later, Mr Cust remarked in his Revenue Manual The principle (of pre emption) is not defended on any economic grounds but is maintained for social and political reasons,' * and contemplated without regret " a gradual process by which the existing village communities might melt away and give place to a more modern and perhaps more politically nice distribution of property ' †

Causes of increase of transfers.

9 The disposition to look on unlimited power of transfers as an essential feature of proprietary right and a necessity of economic progress was strengthened by the assimilation of the law and procedure of the Punjab with that of the older provinces, which resulted from the extension of the Code of Civil Procedure to the province in 1866, and the establishment of a Chief Court in Lahore in the same year About the same time the policy of moderation and fixation of the land revenue began to make land attractive as an investment Titles had been clearly determined, and the moderation of the demand made the ownership of land a source of income The peasant proprietor found his credit rapidly expanding The old system of limited borrowing on the security of crops cattle, and ornaments was supplanted by one of extravagant borrowing on the security of the land

Increase looked on as beneficial, or at least inevitable.

10 Sales and mortgages of land to money lenders became a feature of village life By some this was looked upon with little alarm and even with complacency It was maintained

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*Cust's Revenue Manual, page 23.
†Cust's Revenue Manual, pages 29-30

that the resources of the country would be developed by the application to the improvement of the land of the capital of the moneyed classes Even those who disliked the process, were disposed for a time to look on it as the outcome of an irresistible economic law

11 But, with each *quinquennium* the alienation of land proceeded everywhere at a more rapid rate, and in some parts of the country the area which had passed out of the hands of the original owners amounted to a considerable total The social and political evils likely to spring from the expropriation of the old landowning classes again came to be keenly felt, and acquiescence became increasingly difficult, and ceased to be regarded as inevitable The policy of *laisses faire* expounded by the English economists was no longer considered as applicable to every country and stage of society Experience also showed that the expectation that the new proprietors and mortgagees would be improving landlords was not fulfilled Very few turned out to be anything but rent receivers and their tenants lacked the devotion and painstaking labour of peasant owners.

Growth of opinion hostile to free transfer

12 The interest in primitive institutions aroused by the works of Sir Henry Mayne, and stimulated by the abundant evidence of their survival in India, worked in the same direction The records of tribal law compiled by Settlement Officers supplied unmistakable evidence that ownership of the modern western type was alien to the ideas of the rural population It was seen that the Indian conception of property in the soil is that it is vested in a family and not in an individual, and that the owner for the time being is not entitled to dispose of it how and to whom he will

Reasons for change of opinion

13 This doctrine invaded the civil courts, which were bound by section 5 of the Punjab Laws Act to decide questions of inheritance, adoption and gifts primarily on evidence of custom, and from 1887 onwards it formed the foundation of a series of decisions by the Chief Court on sales and mortgages by sonless proprietors, adoption, gifts and pre emption * But these decisions, valuable though they were, did not prove effective restraints on the actions of landowners, and in no way reduced the seriousness of the problem which Government had to face

Civil courts accept doctrine of limited ownership

14 The position was at last accepted that the root of the evil was to be found in the inflation of the peasant owners' credit, and that the only hope of checking it lay in lessening his powers of borrowing by imposing legal restrictions on the sale and mortgage of land This policy was embodied in the Punjab Alienation of Land Act, XIII of 1900, the provisions of which will be noticed presently

Necessity of restricting credit basis of Punjab Alienation of Land Act

15 The measures taken at various times for the protection of the landowners of the Punjab may be classed under the heads—

(a) The legal enforcement of the custom of pre emption ,

(b) The restriction of transfers by landowners belonging to agricultural tribes ,

Classification of measures taken at different times to protect landowners

*See Chapter III of ' Tribal Law in the Punjab by Roe and Rattigan

(c) The exemption from sale in execution of decree of land and other property of hereditary agriculturists

Pre-emption its nature

16 The origin of pre emption is clearly explained in 'Tribal Law of the Punjab' 'It has been usual to regard this as a village, not as a tribal, custom, and as originating in the *Muhammadan law*. I think that this is quite an erroneous view, and that pre emption is merely a corollary of the general principles regulating the succession to, and power of disposal of, land In these matters the holder of the estate for the time being is subject, generally speaking to the control of the group of agnates who would naturally succeed him They can as a general rule altogether prevent alienations by adoption or gift or by sale for the holder s own benefit , it would be only a natural rule that when a proprietor was compelled by necessity to sell these agnates should be offered the opportunity of advancing the money required, and thus saving what is really their own property *

Early provisions in Punjab Civil Code etc

17 The first administrators of the Punjab brought a knowledge of the existence of pre emption in village communities from what is now the United Provinces In 1852 the Board of Administration issued a circular (No 28 of 1852) requiring a landowner who wished to sell his share to offer it in the first instance to the whole community or to some individual coparcener at a reasonable price to be fixed by agreement, failing which the revenue officer and three assessors were to determine the fair value Two years later this instruction was embodied and elaborated in section XIII of the Punjab Civil Code Pre emption was there declared to apply to village lands and sites in villages and *kasbas* occupied by shareholders in the estate, and to extend to private sales, sales in execution of decree and foreclosures of mortgage If none of the owners wished to buy, the hereditary tenants (if any) might exercise the right Provision was made for the valuation of land in case of dispute by a committee appointed by the revenue authorities Pre emption suits were to be brought in the civil courts, but any issues as to priority among contending claimants and the value of the land were to be referred for decision to the revenue authorities The Chief Commissioner, in 1856, with the object of preserving the integrity of village communities, extended the right to usufructuary mortgages †

Entries in village administration papers

18 The customs governing pre emption were also recorded in village administration papers drawn up at settlements made before the passing of the Punjab Laws Act, IV of 1872 ' In nearly all the old wajib ul 'arz we find a provision securing this right either to the next heirs, or to the agnates generally, and after them to all members *of the village community to the exclusion of strangers* "‡

Right restricted by civil courts

19 Two early judgments of the Chief Court robbed pre emption of most of its value The court held that the right did not extend

* 'Tribal Law in the Punjab by Roe and Rattigan pages 82 83

† Financial Commissioner s circular No 41 of 1856

‡ " Tribal Law of the Punjab," by Roe and Rattigan page 88

to usufructuary mortgages,* except where the village administration paper provided otherwise, and that a proprietor by purchase, though a stranger to, and at bitter strife with, the original village brotherhood, had as good a title to claim pre emption as any member of it †

20 The same limitation of the right as regards the transaction in respect of which it exists, and the same extension of it as regards the persons who may claim to exercise it, were unfortunately embodied in the sections of the Punjab Laws Act, IV of 1872, which dealt with pre emption That Act as amended by Act XII of 1878, provided that the right arises in the case of sales under a decree or otherwise and foreclosures of mortgage,‡ and that, unless a custom or contract to the contrary is proved, it exists in all village communities, and extends—

Provisions of Punjab Laws Act IV of 1872

(a)

(b)

(c) in such lands §

In the absence of custom to the contrary, the right was declared to belong to the following persons in the order stated —

(a) first, in the case of joint undivided immovable property, to the co sharers ,

(b) secondly, in the case of villages held on ancestral shares, to co sharers in the village, in order of their relationship to the vendor or mortgagor ,

(c) thirdly, if no co sharer or relation of the vendor or mortgagor claims to exercise such right, to the landowners of the *patti* or other sub division of the village in which the property is situate, jointly ,

(d) fourthly, if the landowner of the *patti* or other sub division make no joint claim to exercise such right, to such landholders, severally ,

(e) fifthly, to any landholder of the village ;

(f) sixthly, to the tenants (if any) with rights of occupancy in the property ,

(g) seventhly, to the tenants (if any) with rights of occupancy in the village

In the case of transfers of rights of occupancy under section 5 of the Punjab Tenancy Act, XVI of 1887, the prior right of the landlord was secured by section 53 of that Act If he failed to exercise it, pre emption belonged, first, to the tenants (if any) having a share in the occupancy right proposed to be sold, and, secondly, to the other occupancy tenants in the village || Where the *chakdari* tenure prevails,¶ the *adna maliks* possessing shares in a well had a right of pre emption in these shares in preference to the *ala malik* **

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* 2 Punjab Record, case No 87

† 4 Punjab Record, case No 4

‡ Section 9

§ Section 10

|| Section 12 By a proviso to the section, if Government owned the trees growing on land it had a right of pre emption in the land superior to that of any private individual

**Section 20

(Sections 9, 10, 12 and 20: These sections were repealed by Act II of 1905)

¶ See paragraphs 167—170 of the Settlement Manual

Where two or more persons were equally entitled to pre emption, the vendor or mortgagor might determine which of them should exercise it * Sections 13 to 18 of the Act provided for the enforcement of the right. The matter was left entirely to the civil courts, no provision being made for the reference of any question in dispute to the revenue officer

Interpretation applied as regards customary rights of pre emption

21. It will be observed that, as regards the persons entitled to pre emption, the Act expressly saved custom * But in practice its 12th section was usually taken, both by Settlement Officers and civil courts, as disposing of the whole matter The entry on the subject usually made by the former in codes of tribal custom (*riwaj i am*) was that pre emption was regulated by the Punjab Laws Act † The Chief Court has held that the village administration papers furnish valuable evidence of custom as regards the persons entitled to claim pre emption ‡

Punjab Act II of 1905

22 The recasting of the law of pre emption with the object of bringing it into accord with village custom and ideas became imperative when the Punjab Alienation of Land Act came into force. The necessary amendments were effected by Punjab Act II of 1905 The right of pre emption was declared to exist in respect of agricultural land, as defined in the Punjab Alienation of Land Act, and village immovable property, *i e*, immovable property within the limits of village sites other than agricultural land § It extends to sales of both proprietary and occupancy right in agricultural land || In respect of such land, no one has a right of pre emption except ' a member of an agricultural tribe,' as defined in the Alienation of Land Act But this is subject to the proviso that " if the vendor is not a member of an agricultural tribe, the right of pre emption may be exercised also by a member of the same tribe as the vendor, who is recorded as the owner or as the occupancy tenant of agricultural land in the estate in which the property is situate and has been so recorded for twenty years previous to the date of the sale either in his own name or in that of any agnate who has previously held his agricultural land "¶ The most important section of the Act is section 12, which declares the persons who are entitled to pre emption and the order in which they can claim it The intention of sections 11 and 12, of course, is to bring the law into conformity with village custom Section 12 runs—

Subject to the provisions of section 11,** the right of pre emption in respect of agricultural land and village immovable property

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* Section 12

† "Tribal Law in the Punjab" by Roe and Rattigan, page 83

‡ Punjab Record, No 98 of 1894 See "Tribal Law in the Punjab," pages 128 and 130

§ See Section 3 (1) and (2) and section 5 of Act II of 1905 The provisions which relate to urban immovable property lie outside the scope of this work.

|| Section 3 (1) of Act II of 1905

¶ Sections 3 (4) and 11 of Act II of 1905

** Now see section 15 of Act I of 1913

shall vest—

(a) in the case of the sale of such land or property by a sole owner or occupancy tenant, or, when such land or property is held jointly, by the co sharers—

in the persons who but for such sale would be entitled to inherit the property in the event of his or their decease, in order of succession;

(b) in the case of a sale of a share of such land or property held jointly—

first, in the lineal descendants of the vendor in the male line, in order of succession;

secondly, in the co sharers, if any, who are agnates, in order of succession,

thirdly in the persons described in sub clause (a) of this sub section, and not hereinbefore provided for,

fourthly, in the co sharers, (i) jointly, (ii) severally,

(c) if no person having a right of pre emption under sub clause (a) or sub clause (b) seeks to exercise the right—

first, when the sale affects the superior or inferior proprietary right, and the superior proprietary right is sold in the inferior proprietors, and, when the inferior proprietary right is sold, in the superior proprietors,

secondly, in the owners of the *patti* or other sub division of the estate within the limits of which such land or property is situate, (i) jointly, (ii) severally,

thirdly, in the owners of the estate, (i) jointly, (ii) severally;

fourthly, in the case of a sale of the proprietary right in such land or property, in the tenants (if any) having rights of occupancy in such land or property, (i) jointly, (ii) severally,

fifthly, in any tenant having a right of occupancy in any agricultural land in the estate within the limits of which the property is situate

Explanation 1—In the case of a sale of a right of occupancy, clauses (a), (b) and (c) of this sub section, with the exception of sub clause *fourthly* of clause (c), shall be applicable

Explanation 2—In the case of sale by a female of property to which she has succeeded through her husband, son, brother or father, the word "agnates" in this section shall mean the agnates of the person through whom she has so succeeded

Chapter IV of the Act deals with procedure It maintains the jurisdiction of the civil courts, but makes careful provision to prevent pre-emption being used to defeat the objects of the Punjab Alienation of Land Act, XIII of 1900 *

* Sections 20 21, 26 and 27 of Act II of 1905

Punjab Pre-emption Act I of 1913

22 A The experience gained after the passing of the Punjab Pre emption Act of 1905 showed that several alterations and amendments were necessary In the Punjab the law of pre emption must march hand in hand with the law governing the alienation of land, and, although the proposal to amend the Act of 1905 originated in the necessities for removing certain ambiguities and defects of drafting and for rendering more precise the application of section 8, one of the main changes introduced to wit the change in section 14, was designed to bring the law of pre emption more closely into line with the Land Alienation Act As the statutory agriculturist had disappeared from the latter Act it was felt that the only differentiating restrictions required were in respect of agricultural land sold by a member of an agricultural tribe and in respect of such land the right of pre emption was limited to persons who were members of an agricultural tribe in the same group as the vendor For all other lands membership of an agricultural tribe in itself created no special preferential right Another main change was in section 8 In the Act of 1905 section 8 (2) was introduced mainly to protect from pre emption land required for commercial and industrial purposes but it was found inadequate to accomplish the object without the issue of separate notifications by the local Government in the case of each plot concerned It was therefore amplified so as to allow for a general notification exempting all agricultural land sold in good faith for industrial commercial or residential objects Punjab Act II of 1905 was therefore repealed and the new Act I of 1913 took its place Subsequent to the passing of Punjab Act I of 1913 referred to above it was found that the provisions of the law of pre emption were being defeated by a purchaser splitting his transaction into two parts by purchasing one kanal of land on the first day and the balance on the second day If a suit for pre emption was brought with respect to the second sale by the village proprietors he could successfully defend the suit on the ground that he acquired proprietary rights in the village one day prior to the second purchase * To prevent such cases occurring in the future, a new section No 28 A was inserted in the main Act by an amending Act, No II of 1928 which came into force from the 1st December 1928 By this addition it should be impossible for a purchaser to defeat the law of pre emption by splitting his transactions into two parts and to retain the property acquired by the second purchase, even though he may subsequently lose the property acquired by his first purchase

Commissioner's sanction to transfers to strangers formerly required

23 There used to be an old rule which required the sanction of the Commissioner to the transfer to a stranger of a share of land in a village community It was more a device to ensure that reversioners had an opportunity of exercising their right of pre emption than an attempt to restrict freedom of contract Mr Cust, in 1860, explained it as follows The right of pre emption is not to be evaded, the sanction of the Commissioner must precede all such mutations and within a period of three months

* See case of Nadir Ali Shah *versus* Wali &c, published at page 486 of Indian Law Reports Lahore series, volume V of 1924

from the transfer taking place or being made known to the parties concerned, the validity of the transfer may be disputed by a regular revenue suit under paragraph 11, Part I, Chapter XIII, of the Punjab Civil Code *"

The rule was retained in the instructions on mutation procedure under the first Punjab Land Revenue Act, XXXIII of 1871. But it was there directed that " if the transferee has obtained possession, and no suit for pre emption is brought within the term of limitation, or if such suit when brought is dismissed, mutation of names shall be sanctioned " This may have had some effect in discouraging transfers to strangers, the tendency being to regard a transaction of the sort as incomplete till it had been recognized by an entry in the record of rights

Far reaching change effected by Punjab Land Alienation Act

24 The causes which led to the passing of the Punjab Alienation of Land Act XIII of 1900, have already been explained The direct restraints which it imposed on freedom of transfer appeared novel at the time although restrictions on free transfer are found in one form or another in many countries

Scope of the Act.

25 The Act came into force on the 8th of June 1901 It extends to the whole of the Punjab † but power is given to exempt by notification any area, person or class of persons wholly or partially from its operation ‡ The only exempted district is Simla, except the *ilaqa* of Kotgarh in the Kot Khai tahsil, but all municipal and canton ment areas in other districts have been excluded from the operation of the provisions restricting freedom of transfer § The Act applies to the rights of occupancy tenants, as well as to those of landowners ‖ It classifies alienations as " permanent " and " temporary " The former includes sales, exchanges, gifts and wills ,¶ the latter mortgages and leases

Usufructuary and collateral mortgages.

26 Mortgages are broadly divided into usufructuary and collateral mortgages In the former the mortgagee takes possession of the mortgaged land, enjoying the rents and paying the land revenue, the difference between the rent and the revenue being

* Paragraph 13 of Financial Commissioner s Book circular No XLVII of 1860

† Section 1 (2)

‡ Section 24

§ [illegible]

‖ See section 2 (3) (*f*) of Act XIII of 1900 As to transfers by occupancy tenants see also chapter V of the Punjab Tenancy Act XVI of 1887.

¶ Section 2 (4) Gifts for a religious or charitable purpose, whether made *inter vivos* or by will, are not permanent alienations for the purpose of the Act

regarded as equivalent to the interest on the mortgage debt * In a collateral mortgage the mortgagor retains possession of the land so long as he pays interest and instalments of principal according to the terms of the mortgage deed If he makes default, the mortgagee can claim to be put in possession

"Members of agricultural tribes and "agriculturists"

27 The provisions of the Act which deal with temporary alienations only recognize two classes of persons—

(a) those who are, and
(b) those who are not } members of agricultural tribes

Upon the latter no restrictions of any kind are imposed Those relating to permanent transfer originally introduced a third class described as—

(c) agriculturists

"Members of agricultural tribes" meaning of term

28 The first class consists of persons belonging to the tribes notified as ' agricultural " *under the powers conferred by section 4 of the Act, and the second obviously includes all other persons.* Subject to the exceptions noted below the lists of agricultural tribes which have been gazetted† comprise every tribe dependent on the land for support which owns any considerable area of land in the district under which its name is shown Brahmans have been excluded for the present even from the main group of those districts in which they own much land and cultivate with their own hands because they are largely engaged in money lending and other non agricultural pursuits They have been notified in separate groups

"Agriculturists", meaning of term

29 The first two groups are in the main natural ones, but the third, or that of "agriculturists," was purely artificial It embraced most, but not all, members of the first, and some members of the second group The term "agriculturist" was defined as "a person holding agricultural land who, either in his own name or in the name of his ancestor in the male line, was recorded as the owner of land or as an occupancy tenant in any estate at the first regular settlement or, if the first regular settlement was made in or since the year 1870, then at the first regular settlement or at such previous settlement as the local Government may by order in writing, determine' The provision was introduced to mitigate what appeared to be the hardship of preventing acquisition by those who were old landowners Experience proved that it was unsuitable and it was repealed in 1907

30 *Cancelle*

Restrictions on sales

31 There are no restrictions on the purchase of land but only on its sale The sale by a member of an agricultural tribe to anyone not belonging to such a tribe in the same district requires the sanction

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[illegible]

of the Deputy Commissioner* Sanction may be given either before or after a deed of sale has been drawn up and possession given. If sanction is refused, the sale takes effect as an usufructuary mortgage in the first of the three forms described below† for such term not exceeding twenty years, and on such conditions as the Deputy Commissioner may think reasonable‡

32 For the present all the agricultural tribes in each district, with a few exceptions noted below, have been notified as forming a single group§ Members of agricultural tribes have therefore, with these exceptions, full powers of selling and buying *inter se* within the limits of the district in which they own land Should this broad system of grouping lead anywhere to the rapid expropriation of one tribe by another, the formation of smaller groups of tribes may become necessary Brahmans and other agriculturists in some districts have been declared as separate groups of agricultural tribes within their respective districts from 1909 onwards‖

All agricultural tribes in each district form a single group

33 *Cancelled*

34 *Cancelled*

35 The executive order by which a Deputy Commissioner sanctions a sale in no way affects any right which reversioners or others have to contest the validity of the transfer by legal proceedings or to claim pre emption¶

Order sanctioning sale does not affect rights of reversioners.

36 All that has been said above of sales applies equally to exchanges, gifts and wills Death bed gifts to Brahmans, often known as *dohli*, are not usually regarded as subject to the provisions of the Act But the amount which can be alienated in this way is limited by custom, and, if it is exceeded, the donor's heir can sue to have the area reduced to what is permissible by tribal law

Exchanges, gifts and wills

37. The following instructions have been issued by the Financial Commissioners, with the approval of Government, as to the considerations which should influence a Deputy Commissioner in giving or withholding sanction Subject to the proviso to sub section (*iii*) below, he need not concern himself with the possible rights of reversioners or pre-emptors —

Instructions as to giving or withholding sanction to sales

(*i*) Sanction should not be given unless the Deputy Commissioner is satisfied that the transfer is really advantageous to the vendor and his family If a zamindar depends entirely or mainly on his land, no alienation should ordinarily be allowed which will reduce the land he retains to less than is required for the support of himself and his family

NOTE —The distinction between self acquired and hereditary property has to be borne in mind. If there is no reason to suppose that the alienee is a mere intermediary intending to retransfer the land to a money lender, then, other things being equal, there should be less reluctance to sanction the alienation of self acquired, than of hereditary, land

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* Sections 3 (1) and (2)

† See paragraphs 40—42 of this manual

‡ Section 14

§ Punjab Government notifications No 21 S, dated 22nd May 1901, and No 114, dated 16th July 1902

‖ See part B of the appendix to Financial Commissioner's Standing Order No 1

¶ Section 5.

(ii) Sanction should be given if the Deputy Commissioner is satisfied that there is no intention of evading the Act when the object of the purchase is to obtain—

(a) a site for a workshop or factory, for buildings for the accommodation or welfare of persons to be employed in them, for a power installation for working industrial plant, for the offices and out houses required for the same, or for any other object essential to the conduct of an industrial enterprise, the health of persons engaged as labourers or otherwise in connection with such ,

(b) a building site close to a town or village site

(iii) Sanction may be given to an alienation of land—

(a) by wealthy zamindars owning much land, for commercial reasons, or to improve or consolidate their properties ,

(b) by indebted zamindars owning mortgaged land, and desiring to sell a part of their land in order to raise money to redeem the whole or part of the rest ,

(c) proposed or effected in favour of zamindars who, by reason of their insignificant numbers, have not been classed in the particular district as members of agricultural tribes ,

(d) to *bona fide* artisans who are not professional money lenders It is desirable to encourage thrifty members of the artisan class to become owners of small plots of land when the alienation is not disadvantageous to the vendor and his family ,

(e) by a member of an agricultural tribe in one Punjab district to a member of the same tribe or group of tribes in another Punjab district In such a case sanction should usually be given as a matter of course unless the alienation is clearly contrary to the intention of the Act These instructions also apply in the case of
of the other provinces
they had held land
have been deemed to
belong to agricultural tribes To applications for sanction in favour of subjects of Indian States adjoining Punjab districts somewhat different considerations apply , and such applications should be dealt with on their merits

Provided that in cases (a) and (e) no member of an agricultural tribe included in the same group as the vendor has offered, or is ready to offer, a fair price for the land

Mortgages by way of conditional sale abolished

38 The only restraint on mortgage which the Act makes generally applicable is contained in its 10th section, which abolishes the form of mortgage by way of conditional sale This was a form whereby the mortgagor agreed that if he failed to redeem by a certain date the mortgage would be changed to a sale. All that the money

lender had to do was to prevent repayment of the debt by any will or artifice and the rights of the owner became extinguished without recourse to court

Scope of other restrictions

39 The other provisions regarding mortgages apply only to those made by members of agricultural tribes in favour of persons who are *not* members of the same tribe or of a tribe in the same group, or in other words, as matters at present stand, in the same district * When hypothecating his land to such persons, a member of an agricultural tribe must choose between three kinds of mortgages Two of these are usufructuary mortgages, the mortgagee acquiring for the time being the rights of landlord

Usufructuary mortgage for limited period usufruct extinguishing principal and interest

40 The first is a mortgage for a limited period not exceeding twenty years, all the rights of the mortgagor being suspended, and the rents and profits enjoyed by the mortgagee being taken as extinguishing by the end of the term his claim for both principal and interest † This form of mortgage was rare in the Punjab before the Act was passed ‡

Usufructuary mortgage for unlimited period with reservation of right of occupancy

41 In the second form of usufructuary mortgage the term is subject to no statutory limitation, the mortgagor reserves the rights of an occupancy tenant at such cash rent as may be agreed upon consisting of—

(*a*) the land revenue, plus

(*b*) the rates and cesses, plus

(*c*) an additional sum not exceeding (*a*)

and this rent is taken as equivalent to interest The mortgagor tenant cannot alienate his right of cultivation, and he can only be ejected on some ground which would, under section 39 of the Tenancy Act justify the ejection of an occupancy tenant § Should he abandon the land or be ejected from it, the mortgage takes effect as one in the first form for such term not exceeding twenty years from the date on which his possession came to an end, and for such a sum of money as the Deputy Commissioner may think reasonable ‖ This form of mortgage is very rarely adopted

Collateral mortgage

42 The third form of mortgage is a collateral one, in which the mortgagor retains all rights of ownership and cultivation, subject, however, to the condition that, if he fails to pay principal and interest in accordance with the terms of the contract, the mortgagee may apply to the Deputy Commissioner to put him in possession of the land The mortgage then becomes converted into a usufructuary one of the first form for such a term not exceeding twenty years as the Deputy Commissioner may think reasonable It is also his duty to determine what the principal of the debt in the case of the new mortgage shall be This will consist of whatever amount he finds to be due on account of the balance of principal and interest outstanding on th[illegible]

* Section 6 (1)
† Section 6 (1) (*a*)
‡ In Ambala a mortgage of this description was known as ' chakota [illegible]
§ Section 6 (1) (*c*)
‖ Section 6 (2)

mortgage In making up the account, the Deputy Commissioner need not accept the rate of interest contracted for, but may award whatever amount of *simple* interest he thinks reasonable *

Conditions which may be inserted in statutory mortgages

43 In these statutory mortgages conditions may be inserted limiting the right of a mortgagor or mortgagee in possession to cut, sell or mortgage trees, or to do any act affecting the permanent value of the land † The time in the agricultural year at which a mortgagor who redeems his land may resume possession of it may also be fixed ‡ Any conditions not permitted by the Act which are inserted in these mortgages are null and void §

Revision of terms of un authorized mortgages

44 If a member of an agricultural tribe mortgages his land in any unpermitted form, the Deputy Commissioner is authorized to revise the terms so as to bring the transaction into conformity with whichever of the statutory forms the mortgagee appears equitably entitled to claim ‖ In the case of mortgages by way of conditional sale executed by members of agricultural tribes before the commencement of the Act, the Deputy Commissioner may call on the mortgagee to choose whether he will retain the existing mortgage with the sale condition struck out, or accept, in lieu of it, a mortgage in the first or third of the forms described above ¶

Procedure in suits to en force un authorized mortgages

45 If a suit is instituted in a civil court on a mortgage by way of conditional sale or in a form unauthorised by the Act executed by a member of an agricultural tribe, the court is bound to make a reference to the Deputy Commissioner so that he may exercise the powers referred to in the last two paragraphs **

Mortgagor's right of redemption un restricted

46 The execution of a mortgage in one of the statutory forms in no way interferes with the mortgagor's right to redeem his land at any time on payment of the mortgage debt, or, in the case of a mortgage in the first or third form, of such proportion of the mortgage debt as the Deputy Commissioner determines to be still due ††

Question whether statutory mort gages will come into use

47 The local Government has power to permit any other form of mortgage to be used by members of agricultural tribes, and to add to the conditions admissible in the forms permitted by the Act ‡‡ Thirty years experience has shown that only the first form of mortgage has proved acceptable The second form is almost unknown The conditional sale clause has now practically disappeared

Leases

48 As it would be easy to evade the provisions regarding mortgages by making transfers for long periods in the form of leases the term of leases made by members of agricultural tribes in favour of persons who are not members of the same tribe or a tribe in the same group has been limited to twenty years §§

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* Section 6 (1) (*b*)
† Section 8 (*b*)
‡ Section 8 (*a*)
§ Section 8 (?) see also paragraph 47
‖ Section 9 (1)
¶ Section 9 (2)
** Section 9 (3)
†† Section 7 (3)
‡‡ Sections 6 (1) (*d*) and 8 (*c*)
§§ Section 11

49 The object of the Act would also be defeated if, during the currency of a mortgage or lease for a term limited by law to twenty years, the mortgagor or lessor were free to extend the period by executing a fresh transfer If the alienation already effected is for twenty years, no further transfer by way either of mortgage or of lease is permitted , if it is for less, a further mortgage or lease is allowed for such a number of years as will bring the whole period of transfer up to twenty years *

Restriction on extensions of mortgages and leases.

50 Another device for evading the Act had also to be guarded against There is little difference in effect between a mortgage of land and a mortgage of its produce Members of agricultural tribes are therefore forbidden to alienate or charge the produce or any part of the produce of their land for a period exceeding a year without the sanction of the Deputy Commissioner † There is no interference with borrowing on the security of the next two harvests The period of one year will as a rule cover contracts made by landowners with the agents of large firms engaged in the wheat and oil seed export trade Such dealings have been of great benefit to the zamindars in many parts of the country, and, if engagements of the sort for a period exceeding one year come before a Deputy Commissioner, he need feel no hesitation about sanctioning them ‡

Restriction on hypothecation of crops

51 The sale of agricultural land in execution of a decree has always been subject to severe restrictions in the Punjab At first *the sanction of Commissioners was sufficient In 1859 that of the* Judicial Commissioner was required when the property was ancestral, and not acquired Afterwards the Financial Commissioner became the authority to whom sale proposals had to be submitted The direct result of these rules was that sales in execution were almost unknown , the indirect, that loans without the security of a mortgage on the debtor's land were discouraged The same Act which has put restrictions on mortgages has forbidden the sale in execution of a decree of land belonging to a member of an agricultural tribe § The provisions of section 72 of the Civil Procedure Code (Act V of 1908) have therefore ceased to be of much practical importance so far as the Punjab is concerned Orders issued by any court for the attachment, sale or delivery of land or interest in land, or for the attachment or sale of produce, must be executed by the Collector or some revenue officer appointed by him || The rules on the subject will be found in chapter XII, sections F and G of the Rules and Orders of the High Court, volume I, and Financial Commissioners' Standing Order No 64

Sale in execution of decree.

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* Section 12 (1)

† Section 15 For definition of 'produce' see the explanation appended to the section

‡ See paragraph 41 of Financial Commissioner's Standing Order No. 1—Alienation of land For procedure connected with the Alienation of Land Act see part E of that Standing Order

§ Section 16

|| Section 141 of Act XVII of 1887

Temporary alienations in execution of decrees

51 A Sale of land belonging to a member of an agricultural tribe in execution of a decree is forbidden by section 16 but at one time a learned judge of the High Court held that the land of an insolvent agriculturist vested in the official receiver who could sell it to another member of an agricultural tribe in satisfaction of a decree passed by an insolvency court This interpretation of the law was subsequently overruled by a Division Bench of the same court *

It is however, a settled question that a civil court can in execution of a decree order a temporary alienation of the land of a judgment debtor who is a member of an agricultural tribe, and that section 16 prohibits a sale and not a temporary alienation of such land, (*vide* Full Bench ruling in 1 Lahore 192) Following that ruling a learned judge held that an order by a civil court, directing the temporary alienation of the land of a member of an agricultural tribe for more than twenty years even if the lease be ordered in favour of a person who is not a member of an agricultural tribe, did not contravene the provisions of the Punjab Alienation of Land Act Formerly it had been the settled practice of the civil courts not to order temporary alienations for more than twenty years in such cases but as a result of this ruling the practice was departed from and in not a few cases civil courts ordered alienations for as long as fifty years As such action was a violation of the original objects and scope of the Act, the Punjab Alienation of Land (Amendment) Act I of 1931, was passed The new Act, which sought to re-establish and preserve the *status quo ante* has absolutely limited temporary alienations in all cases whatsoever, to a maximum period of twenty years and permits mortgages only in one of the forms mentioned in section 6 of the original Act

Other exemptions in favour of agriculturists

52 By section 60 (1) (*b*) and (*c*) of the Civil Procedure Code (V of 1908), the following kinds of property belonging to an agriculturist are exempted from attachment —

(*a*) implements of husbandry ,

(*b*) such cattle and seed grain as may, in the opinion of the court, be necessary to enable him to earn his livelihood as such ,

(*c*) the materials of houses and other buildings owned and occupied by him †

When the agriculturist is a person liable for the payment of land revenue, the proviso to section 70 of the Land Revenue Act, XVII of 1887, becomes applicable ‡ and if an order to attach produce is issued, the court should ask the Collector to decide what portion of it should be exempted as being necessary for seed grain and for the subsistence until the harvest next following of the defaulter and his family

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* Civil Appeal No 2[illegible]6 of 192[illegible]

† See also section 88 (2) (*a*) of Act XVI of 1887 The word agriculturist here has not the technical sense it bears in Act XIII of 1900

‡ Section 61 of the Civil Procedure Code (V of 1908).

No revenue court or officer must, except for reasons of urgency to be recorded, issue any process of arrest against a tenant or against a landowner who cultivates his own land during either of the two harvesting seasons *

Provisions of Tenancy Act regulating relations of landlords and tenants-at will.

53 The chapter on the 'Rights of Tenants' in the Settlement Manual treats mainly of the history of hereditary tenant right in the Punjab and of the existing law on the subject contained in Act XVI of 1887 The remainder of the present chapter deals mostly with the relations of landlords and tenants at will

Proportion of land cultivated by tenants at-will.

54 About 43 per cent of the land in the province is tilled by the landowners themselves,† 9 per cent by occupancy tenants and 48 per cent by tenants at will, a few of whom pay no rent If the five south western districts of Jhang, Montgomery, Multan, Muzaffargarh and Dera Ghazi Khan are excluded, 44 per cent are cultivated by tenants at will 47 per cent by the landowners and 9 per cent by occupancy tenants The tenants at will are for the most part also landowners in the same village who own too little land of their own to provide a decent livelihood

Lien of landlord on produce

55 The rent‡ of a tenant's holding is a first charge on its crops ‖ If any other creditor gets the produce attached in execution of a decree against the tenant, the landlord can insist on its sale and on being paid from the proceeds whatever he proves to be due *on account of the rent of the current harvest and of any unpaid rent* which fell due within the year immediately preceding the date of his application to the revenue officer on the subject § The finding of the revenue officer as to the amount to which the landlord is entitled has the force of a decree ¶

Rights and duties of landlords and tenants as regards produce.

56 Except in the case just mentioned, the landlord must not intermeddle with the tending, cutting or harvesting of his tenants crops ** But of course, where the rent consists of a portion of the produce, he has a right to take part in the division and to remove his own share †† The tenant on his part is bound where the rent is taken by division (*batai* or appraisement (*kankut*)) not to remove any portion of the produce at such a *time or in such a manner as to prevent the due division or appraise* ment thereof, and to abstain from dealing with it in a manner con trary to established usage If he wrongs his landlord in either of

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* See Tenancy Rule 14 The periods are between 1st April and 31st May or be

these ways and a rent suit is the result, "the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for that harvest "*

Division by referee appointed by tahsildar. 57 Delay in dividing a garnered crop may result in very serious loss from the sprouting or rotting of the grain The landlord or tenant who is injured by the failure of the other party to attend may apply to the *tahsildar* for the appointment of a referee to divide or appraise the produce The referee may carry out the division or appraisement in the absence of one of the parties, if, after due notice, he fails to appear The result of the referee's proceedings must be reported to the *tahsildar* for confirmation The same procedure may be adopted when there is any dispute between the landlord and the tenant about the division or appraisement †

Payment of rent through tahsil 58 When two or more persons are landlords in respect of a single tenancy, the tenant is not bound to pay part of his rent to one and part to another ‡ It is their business to appoint one of their number to receive the whole rent Where rent is payable in cash, the landlord may, for some reason, refuse to receive it, or to grant a receipt There may for example, be a dispute about the amount, and he may refuse to sign an acquittance unless the tenant will give him all he claims Again a tenant may occasionally be in doubt who the person is who is entitled to be paid the rent In either case it is open to him to apply to the *tahsildar* to accept the rent as a deposit, and pay it to the person whom he considers entitled to receive it §

Notice of relinquishment 59 Tenants at will usually hold by the year only, leases for a term of years being still uncommon Arrangements are, as a rule, made for the agricultural year (kharif rabi), the outgoing tenant giving up the land after the spring crops have been harvested The law provides that neither party to a contract of letting shall be able to put the other in a difficulty by failing to give timely notice of his intentions as regards the next agricultural year, which means in the Tenancy Act, the twelve months beginning on the 16th of June ‖ A tenant who proposes to quit his holding after the rabi harvest must inform his landlord on or before the 15th of January If he fails to do so, he becomes liable for the rent of the next agricultural year unless the landlord arranges for the cultivation of the land by someone else ¶ Except with the consent of the landlord, a notice of relinquishment must apply to the whole of the leased land ** If the tenant thinks it desirable for his own security, he can give notice to the landlord through the *tahsil* ††

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* Section 16

† Sections 17 18 and 19

‡ Section 15

§ Sections 31 and 32

‖ Section 4 (17)

¶ Section 36 (1) and (3)

** Section 37

†† Section 36 (2)

Notice of ejectment of yearly tenant

60. A landlord who wishes to eject a tenant at will can apply to a *naib tahsildar** or *tahsildar* for the issue of a notice † The application must be made in time for service to be effected on or before the 15th of November ‡ Subject to that qualification, the application can be lodged at any time after the beginning of the agricultural year The above date is a very suitable one as it falls before the *charı* crop has been completely cleared off the ground and before the winter rains The tenant therefore gets notice before ploughing for the harvests of the next agricultural year begins

Contents of notice

61 The notice requires the tenant to give up the land before the 1st of May, and informs him that, if for any reason he disputes his liability to ejectment, he must bring a revenue suit for that purpose within two months from the date of service It also warns him that, in the event of his having any claim to receive compensation for improvements or disturbance before ejectment, he must, within two months present an application to an Assistant Collector of the 1st grade § The circumstances under which such a claim arises will be discussed later ‖ It is enough to say here that, if it is established ejectment must be stayed until it is satisfied ¶

Ejectment order

62 The tenant may obey the notice and relinquish the land before the 1st of May If, without instituting a suit to contest liability to ejectment or lodging an application for payment of compensation he simply remains in possession, the *tahsildar*, on being satisfied that the notice has been served, passes an ejectment order ** If compensation is claimed the order must be issued by an Assistant Collector of the 1st grade †† An ejectment order is enforced in the same way as a decree of a civil court for the possession of land It can only be executed between the 1st of May and the 15th of June ‡‡ Failing execution at the proper time the tenant is entitled to keep the land for the next agricultural year Applications for compensation on account of improvements or disturbance should be dealt with promptly. It is unfair that a landlord should be kept out of his rights by the dilatoriness of a revenue officer.

Protection of standing crops

63 If, when the order is executed, it is found that the tenant has crops standing on any part of the land, he must not be ejected from that part till they ripen and he has had a reasonable time for harvesting them On the landlord's application, the revenue officer who ordered the ejectment may fix a fair rent to be paid by the tenant for his extended use of the land, or he may value the crop and allow the landlord to take possession on paying the amount into

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* It must be remembered that while a *naib tahsildar* can issue a notice he cannot pass the subsequent ejectment orders [see section 76 (1) (i) and (*m*), and (2) (*c*).]

† Section 43

‡ Section 45 (2)

§ Section 45 (3) and (4). *Tahsildars* are only Assistant Collectors of the 2nd grade

‖ See paragraphs 72 73 and 76 of this manual

¶ Section 71

** Sections 45 (5) and 76 (1) (i) and (2) (*b*).

†† Section 76 (1) (*d*) and (2) (*a*)

‡‡ Section 47

his office. Where the tenant has prepared land for sowing, but has not sown it, he may ask the revenue officer to determine what amount is due to him from the landlord on that account. His right to receive anything is contingent on his having acted conformably with local usage in the method of tillage adopted *

Ejectment of tenants for a fixed term and occupancy tenants

64. So far, we have been dealing with the method by which a landlord can get rid of a yearly tenant The law as regards the ejectment of occupancy tenants is briefly described in paragraph 218 of the Settlement Manual, but it will be convenient to state it more fully here in connection with that which governs the case of tenants for a fixed term exceeding one year under a lease or a decree or order of a competent authority A tenant of the latter class may throw up his holding at the end of the term without giving any notice to his landlord † Till then he is, like an occupancy tenant, protected from ejectment by any summary process A landlord seeking to oust him must bring a regular suit against him

Order for ejectment of occupancy tenant failing to satisfy decree for rent

65 There is one case in which a summary process can be used against an occupancy tenant, but not apparently against a tenant for a fixed term exceeding one year.‡ An Assistant Collector of the 1st grade§ can order the ejectment of an occupancy tenant when a decree for an arrear of rent has been passed and remains unsatisfied || But he must first give the tenant an opportunity of satisfying the landlord's claim by warning him that ejectment will be ordered unless within 15 days he pays the amount due into the Assistant Collector's office ¶ These provisions, if worked mechanically, may cause hardship where there is much difference between the amount of the arrear and the value of the tenant right It must be borne in mind that the tenant is often a very ignorant person A considerate revenue officer will in such a case, summon him to receive the written notice in his presence, and explain to him the result which will follow on failure to pay within the appointed time There is no legal objection to granting a short extension of time for payment for the issue of the ejectment order may be deferred if "good cause" is shown for so doing ** The Assistant Collector should also ascertain whether the tenant has any claim to compensation for improvements or for disturbance If he has, it must be gone into before any further action is taken †† Where an ejectment order is passed, it can, as a rule, as in the case of a tenant at will, only be executed between the 1st May and 15th June But, where this limitation

* Section 49

† Section 35

‡ This seems the deduction to be drawn from a comparison of section 39 (c) with sections 40 and 42 (a)

§ Section 76 (1) (c) and (2)

|| Section 42

¶ Section 44

** Section 44 (2)

†† Sections 44 (2) and 71

would be unfair to the landlord, as it might be, for example, where the tenant had delayed matters by a baseless claim for compensation, execution can be allowed at any time *

Remedy of tenant dispossessed before receipt of compensation due.

66 If by any accident or mistake a tenant entitled to compensation for improvements or disturbance,† or for the value of unharvested crops or the preparation of land for sowing‡ is ejected before the amount due has been determined he will not be reinstated But he can, within one year from the date of his dispossession apply to the court which decreed or to the revenue officer who ordered, his ejectment to fix the sum due and require the landlord to pay it An order passed on such application has the same effect as a decree for money §

Grounds of action for ejectment and reinstatement

67 The grounds on which an action for ejectment may be brought and the circumstances under which a tenant who considers that he has been wrongfully dispossessed may sue for reinstatement or for compensation, will be dealt with in the chapter on Revenue courts

Nullity of entries in records of rights or agreements increasing landlord's power of ejectment

68 Any clause in a record of rights whenever made, or in an agreement made after the passing of Act XVI of 1887, empowering a landlord to eject a tenant otherwise than in accordance with that enactment, is void ||

Leases current when new assessment is introduced.

69 Provision is made in section 34 of the Act for the avoiding of leases whose term is still running when the revenue is altered at a general re assessment, failing a revision of terms made with the assistance of a revenue court and accepted by the tenant, when the assessment has been raised, and by the landlord, when it has been reduced Leases for the term of settlement continue in force until a revised assessment actually takes effect unless a contrary intention clearly appears in the agreement ¶

Improvements

70 The question of "improvements" in tenants' holdings may occasionally cause some little difficulty for no very broad line of distinction can be drawn between the simplest kinds of "improvements and some of the operations carried out by tenants in the ordinary course of tillage An exhaustive explanation of the terms as applied to a work executed on an agricultural tenancy is given in section 4 (10) of the Tenancy Act The important point is that the work must be one by which "the value of the tenancy has been, and continues to be, increased" The term does not embrace every operation which increases for a time the value of the holding, but only such as are outside the everyday course of husbandry, and possess a greater or less degree of permanency The sinking of a

* Section 47

† See paragraphs 73 and 78 of this manual

‡ See paragraph 63 of this manual

§ Section 74

|| Sections 109 (c) and 110 (c)

¶ Section 34

masonry well to irrigate a field hitherto dependent on the rainfall is obviously an "improvement" So is the making of a *kacha* well in stiffish soil for this involves a good deal of labour, and the well will last for several years. But the digging of a shallow *kacha* well of the ordinary type, which waters a few *bighas* of crops in the rabi and falls in the rainy season, is not an improvement'

Improvements by landlords

71 In a country of peasant proprietors like the Punjab the bulk of agricultural improvements is made by the landowners on lands over which they have full control The question of improvements in tenants holdings is only of practical importance as regards those which are effected by occupancy tenants and the particular class of improvements known as *jangal tarashi* or clearance of waste, carried out by tenants at will It is true that by Act XVI of 1887 landlords have the right to make improvements in the lands of occupancy tenants with the previous permission of the Deputy Commissioner * and that provision is made in the Act for enhancing the rent of the improved holdings † But, as a matter of fact landlords are very chary of spending money on lands with which their connection is mainly confined to receiving a rent fixed by authority Should an application for permission to do so be presented the tenant ought to be heard The point is really of little importance as disputes are very rare

The Act permits the local Government to issue rules on the subject of landlords improvements ‡ but none have been framed so far

Improvements by tenant-at will

72 A tenant at will can only make an improvement with the assent of his landlord but consent may be assumed from circumstances § The courts have now given a number of rulings which are of value as guides It must be remembered that the question of improvements by tenants is only of importance when compensation is demanded by the tenant

Compensation for disturbance

73 In any case every tenant who has cleared and brought under cultivation waste land in which he has not a right of occupancy' is entitled to compensation great or small if he is ejected before he has got a full return for his expenditure Compensation for disturbance must in no case exceed five years rent of the land, and would in many cases probably be far less If a substantial and lasting improvement has been made the tenant will receive compensation for it in addition to compensation for disturbance ‖ A village proprietor tilling part of the common land of the estate or one of several co sharers cultivating the joint holding cannot claim compensation for disturbance on ejectment ¶ Where rent is paid in grain or by a money rate on crop (*zabti***), or by a cash rent consisting only of the land revenue and

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* Section 61
† Section 6?
‡ Section 61 (3)
§ Section 64
‖ Section 69 (1)
¶ Proviso to section 69 (1)
** See paragraph 312 of the Settlement Manual.

cesses, the rent for the purpose of calculating compensation may be taken as four times the land revenue * The same rule applies where no rent at all has been paid † As the land was *ex hypothesi* waste when the tenant got it, it will in many cases not be assessed to land revenue In such a case the above provision must be interpreted as meaning that the rent may be assumed to be equal to four times the land revenue deduced by applying to the holding the rate at which similar cultivated lands in the same estate are assessed ‡

Improvements by occupancy tenants

74 The title of occupancy tenants to make improvements on their own holdings is asserted in the 63rd section of the Act But, when the Punjab was first annexed and for many years afterwards, their right to do so was held to be subject to great restrictions The point is really of little practical importance now as the law is generally well understood §

Provisions of Tenancy Act as to tenants' improvements

75 The first Punjab Tenancy Act, XXVIII of 1868, put the law as to tenants improvements substantially on its present footing, except that the provisions of that enactment on the subject could be overridden by written agreements or properly attested entries in the records of a regular settlement || This has now been altered An entry in a record of rights, whenever framed, or a condition in an agreement made after the passing of Act XVI of 1887, which purports to limit the rights of tenants to make improvements, or to receive on ejectment compensation for improvements already made or for disturbance, is null and void ¶ A tenant is, however, free to covenant to pay an enhanced rent on account of an improvement made or to be made by his landlord ** A written agreement made before the 1st November 1887 restraining a tenant at will from making improvements is a bar to any claim for compensation But with this exception improvements made before the Act came into force are deemed to have been made in accordance with the Act ††

Ejectment and enhancement of rent

76 A tenant who starts an improvement after his landlord has sued for his ejectment, or caused a notice of ejectment to be served upon him, does so at his own
if he is turned out of his hol
exception a tenant who has
from ejectment and from enhancement of rent till he has received
compensation from his landlord §§

pensation.

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* See paragraph 309 of the Settlement Manual

† Section 69 (2)

‡ By the local custom of some parts of the country the rights of the clearing tenant are much greater than those explained above [paragraph 211 (2) of the Settlement Manual.]

§ Cust s Revenue Manual pages 42-43

|| See Barkley's edition of the ' Direction for Collectors ' paragraphs 252—54

¶ Sections 109 (*a*) and (*b*) and 110 (1) (*b*)

** Section 110 (2)

†† Section 65

‡‡ Section 66

§§ Section 68

Calculation of compensation.

77 In estimating compensation, the points for consideration are—

(a) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement,

(b) the conditions of the improvement, and the probable duration of its effects,

(c) the labour and capital required for the making of such an improvement,

(d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvements and

(e) in the case of a reclamation, or of the conversion of unirrigated into irrigated land the length of time during which the tenant has had the benefit of the improvement *

Compensation by grant of lease or reduction of rate of *batai*

78 Compensation must be assessed and paid in money unless the parties agree that it should be made in whole or in part by the grant of a beneficial lease of land or in some other way † It is always open to a landlord and a tenant to settle any claim for compensation by the offer and acceptance of a twenty years lease at the existing rent or at any other rent that may be mutually agreed upon ‡ Where a well has been sunk, a reduction of the landlord s *batai* share in consideration of the extra expenditure incurred and required is a very suitable form of compensation When crops are divided it is quite common to find the customary rate for well crops lower than for rain crops

* Section 72

† Section 73

‡ Section 67

CHAPTER III

Assignments of Land Revenue.

79. Grants of land revenue by the State to private individuals are often compendiously described as "*jagirs*" and "*muafis*". No broad distinction can be drawn between these two terms. "*Jagir*" is usually appropriated to the larger grants, and especially to those given for services of a military or official character, and "*muafi*" to assignments of less value and importance. The subject is one of much interest in the Punjab, where such alienations form a larger proportion of the total land revenue than in any other province in India. How this has come to pass will appear in the sequel. It is the more curious because the views which prevailed among the men who had the greatest influence on the early administration of the Punjab were not favourable to the maintenance of a privileged class,* and a rapid reduction of the amount of revenue diverted from public purposes was looked for. Eleven years after annexation the Financial Commissioner estimated the assigned land revenue at 33 lakhs. Forty years later its gross amount was still much the same, but owing to the great expansion of the land revenue of the Punjab the proportion in 1928 was only $\frac{1}{13}$th.

Importance of land revenue assignments in the Punjab.

80. The Governments which preceded our own found it convenient to secure the swords of brave and the prayers of pious men to pacify deposed chiefs and to reward powerful servants, by assigning to them the ruler's share (*hakimi hissa*) of the produce of the land in particular villages or tracts. This was an easier mode of payment for the State than the regular disbursement of salaries or cash pensions and it was much more gratifying to the recipients. The amount which a *jagirdar* could take as the ruler's share was only limited by his own judgment of the capacity of the cultivators to withstand oppression by force or to escape from it by desertion, and he enjoyed in practice most of the rights which we now regard as special evidences of ownership. Large assignees of land revenue also exercised within their own estates the power over life and limb, which is sometimes regarded as the peculiar mark of sovereignty. The system referred to above was too deep rooted for the new administration to destroy. Prudence dictated its continuance, but demanded the limitation of

Assignments under Native Governments.

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* As an extreme example of the view unfavourable to land revenue assignments, the following remarks may be extracted from the Revenue Manual issued in 1866 by Mr Robert Cust who was then Financial Commissioner —

"[illegible] the busy hive."

the drain on the resources of the State which it involved, and the removal of the encroachments which the *jagirdars* had made on the prerogatives of Government on the one hand and on what we conceived to be the rights of landholders on the other

Subject must be treated separately for different tracts.

81 In treating of the subject it will be convenient to deal separately with—

(*a*) the territories included in the Punjab State as Maharaja Ranjit Singh bequeathed it to his successors Here a distinction must be drawn between the *jagir* tenures of (1) Kangra and the tract between the Beas and Sutlej, comprising the present districts of Jullundur and Hoshiarpur and (2) the districts lying to the west of the Beas and Sutlej annexed later ,

(*b*) the Cis Sutlej territory, the plains portion of which was taken under our protection in 1809 and the hill tract in 1815 This includes the present districts of Simla, Ambala Ludhiana Ferozepore (except the Fazilka tahsil) and tahsil Kaithal and pargana Indri in Karnal ,

(*c*) the Delhi and Bhatti territories conquered in 1803 and transferred from the North Western Provinces to the Punjab in 1858 These comprise the districts of Hissar Rohtak Gurgaon Delhi tahsil Panipat and pargana Karnal in Karnal and tahsil Fazilka in Ferozepore

Assignments under the Sikh Government

82 In the first Punjab Administration Report it was estimated that under Maharaja Ranjit Singh more than ⅓rd of the revenues of the State was assigned to private individuals This curious state of things was not due to any sentiment of generosity on the part of that astute ruler It was the natural result of the process by which his power had been built up and of the convenience under a rude system of administration of making the servants of the State collect their wages direct from its subjects Ranjit Singh was originally only the head of one of the *misls* or confederacies into which the followers of Guru Govind Singh were divided Although he made himself the master of the whole Sikh commonwealth in the Punjab, he felt that it was impolitic and perhaps impossible to deprive the powerful Sardars whom he converted from his equals into his vassals of the revenues they had enjoyed and the powers they had exercised within their own estates He contented himself therefore with making their tenure conditional on furnishing contingents of horsemen to reinforce in time of war that powerful army of trained foot soldiers which was the real foundation of his power The same motives led him to leave to the Rajput Rajas of the hills and the powerful Muhammadan Chiefs of the western Punjab, whom he brought under subjection some fragments of their ancient possessions in the shape of *jagirs* A part even of the regular troops was paid by assignments of land revenue and he found it convenient to remunerate in the same way the great officers of the State and to make similar grants for

the support of the ladies and the servants of his household. As an Indian ruler, it behoved him also to be liberal in grants to holy men and religious institutions. It was worth while to conciliate the leading men in many estates, the *mahils*, or *mukaddims* or *chaudhris* as they were called, by giving them a part of their own lands revenue free, or even a considerable share of the village collections. These petty grants were known as *inams* and, where they consisted of a definite share of the revenue of an estate, as *chaharams*.

Insecurity of tenure of assignments under Sikh Government.

83. There was of course no security of tenure. Each grant was held at the pleasure of the Maharaja, which usually meant for so long as the recipient was worth conciliating. More especially every assignment was in practice open to reconsideration on the death of the holder, and when renewed a fine or *nazrana* was often exacted, which sometimes equalled the collections of several years.

Position of assignees under Sikh Government.

84. Assignees were entitled to the State's share of the produce and took it as the State usually did, in kind, that is by actual division of crop or by appraisement. Where the grants consisted of whole villages the grantee exercised the right of extending cultivation by bringing in tenants to break up the waste. He sunk wells and planted gardens and if he was strong enough turned out existing cultivators who fell under his displeasure. The larger *jagirdars* also held the powers comprehensively described as *faujdari*,* that is to say, they carried out, so far as their power or their disposition led them, the rude system for the exaction of fines or the lopping off of limbs as a penalty for crime, or the enforcement of arbitration in civil cases, which then constituted criminal and civil justice. They in their turn made grants within their own estates to the men who fought for them in the field or prayed for them at home.

Assignments in districts annexed in 1846.

85. The territory ceded by the Lahore Darbar in 1846 was known in official literature as the "Trans Sutlej States." In the hill tracts the *jagirs* were held by the Rajput Rajas who had been deposed by Ranjit Singh and who were not restored to independence when we took their country. The Rajas of Mandi and Suket were never reduced to the status of *jagirdars* by the Sikhs, though the former suffered much at their hands, and their territories continued to be separate chiefdoms under the suzerainty of the British Government. In the plains the Kapurthala Chief occupied a similar position, for Ranjit Singh's ally, Sardar Fateh Singh, Ahluwalia, had managed with difficulty to maintain his rights.† But the other Sikh Sardars between the Beas and the Sutlej had been reduced to subjection like their brethren to the west of the Beas, and

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* *Faujdari* meant much more among the Sikhs than it does in modern parlance, including all administrative powers, civil, criminal, and fiscal.—(paragraph 426 of first Punjab Administration Report.)

†Ranjit Singh as a young man had exchanged turbans with Fateh Singh and climbed to power [illegible]

held their estates on condition of furnishing horsemen in time of war. Other *jagirdars* of the Cis Sutlej States had received their *jagirs* as rewards for services rendered to the Lahore Darbar

Orders issued by Lord Hardinge

86 Lord Hardinge's orders* regarding the treatment of revenue free tenures in the Trans Sutlej States may be reproduced as they were adopted with some modifications in the instructions given by Lord Dalhousie to the Board of Administration after the annexation of the rest of the Punjab He prefaced the rules which he laid down by remarking " there is certainly no reason why we should maintain in perpetuity an alienation of the Government revenues which would not have been maintained by the power we have succeeded * * * All grants were resumed by the Sikh rulers at will without reference to the terms of the grants whenever State exigencies or even caprice dictated On the death of the granter they lapsed as a matter of course, and were only renewed on payment of a large *nazrana,* equal in some instances to many years collections * * * * * * The decision of the British Government on these claims will give a permanency, validity, and value to the tenures hitherto unknown, notwithstanding *sanads* from Native Governments of perpetual release from all demands which the holders know mean nothing The rules seven in number, were as follows —

1*st* —All grants for the provision or maintenance of former rulers deposed, or former proprietors dispossessed, to be maintained on their present tenures in perpetuity

" 2*nd* —All endowments *bona fide* made for the maintenance of religious establishments or buildings or buildings for public accommodation, to be maintained as long as the establishments or buildings are kept up

" 3*rd* —All persons holding villages or portions of villages *free of rent or money payment,* and for which no service was to be rendered, by grants made by Maharajas Ranjit Singh, Kharak Singh, or Sher Singh, to be main tained in their holding free of rent during their lives, each case to be open to the consideration and orders of Government on the death of the holder, to be decided according to its merits

" 4*th* —All persons holding land or grants as above, subject to a payment of *nazrana peshkash,* or the like, to hold for their lives, subject to the payment of quarter *jama,* and on the death of the holders, the land to be resumed or assessed at full *jama*

" 5*th* —All persons holding land for which service of any kind was to be rendered to the Sikh rulers, including *Bedis* and *Sodhis,* who were expected to perform religious services for the benefit of the donors, to hold for life subject to a payment of ¼ *jama,* the case of each such tenure to be reported for the consideration of Govern ment on the death of the holder

* Government of India letter No 76, dated 23rd February 1847 to Commissioner Trans-Sutlej States

"6th —Grants made by persons not having authority to alienate the Government revenues to be resumed

"7th —Where no *sanad* exists, a holding for three generations to constitute a title, and entitle the holder to have his case adjudicated by the foregoing rules"

87 *Jagirs* in the Trans Sutlej States which the ancestors of existing holders had won by their swords before Maharaja Ranjit Singh established his ascendancy were known as "Conquest *Jagirs*" In the case of the assignments held by the Sikh Sardars in the plains the policy at first followed appears to have been to resume a portion considered equivalent to the military service, which was no longer required, and to maintain the remainder for life A large number of these life tenures were afterwards reconsidered in pursuance of orders passed in 1856, and were ultimately released in perpetuity The question then arose whether succession should be confined to the heirs of the persons in whose favour the perpetuity grant was made or of the person in possession when the first enquiry after annexation took place The latter alternative was adopted, and it was decided to apply to the Trans Sutlej Conquest *Jagirs* the following five rules which were modelled on those laid down some years previously in the case of the Cis Sutlej *Jagirs* —

Treatment of *jagirs* in tract between Beas and Sutlej

"I —That no widow shall succeed to a *jagir* share

"II —That no descendants in the female line shall inherit

"III —That on failure of a direct male heir, a collateral male heir may succeed, if the common ancestor of the deceased and of the collateral claimant was in possession of the share at or since the year of primary investigation of the *jagir* tenure, which in the Trans Sutlej States is ordinarily 1846

"IV —That alienation by a *jagirdar* of portions of his holding, whether to his relations or strangers shall neither be officially recognized nor officially recorded

"V —That one or more sons of a common ancestor in possession at the period of the first investigation, being entitled to the whole share possessed by such common ancestor, shall be held and be declared responsible for the maintenance of widows left by deceased brothers, who, had they lived would have shared with such son or sons

The *jagirs* of the hill Rajas of Kangra were upheld in perpetuity

Assignments in territory west of the Beas

88 When the annexation of the Punjab was proclaimed on the 30th March 1849 the members of the newly constituted Board of Administration were instructed by Lord Dalhousie that "the very first object to which they should direct their attention was the determination of all questions affecting the validity of grants to hold land rent free" It was obvious that annexation must be followed by a great reduction in land revenue assignments The

Treatment of assignments in territory west of Beas

British Government had no need of the military contingents of the Sardars and it paid its servants by drafts upon the treasury But it was also a fixed part of Lord Dalhousie's policy to lower the position of great Sardars, and to trust to the contentment of the common people and to the presence of a sufficient military force to secure the peaceful development of the new province Of the two great brothers who were the leading members of the Board of Administration, Sir Henry Lawrence accepted with reluctance a policy which differed widely from his own views, while Sir John Lawrence welcomed it because he was himself convinced of its soundness This is not the place to discuss the merits of the course which was actually followed It is enough to note that the settlement made was not in fact an illiberal one It is also the case that men's faith in this, as in some other parts of Lord Dalhousie s policy, was a good deal shaken by the events of 1857, and that in many cases the original conditions of the *jagir* grants to leading families in the Punjab have been revised as opportunity offered in a generous spirit

Lord Dalhousie's views

89 Lord Dalhousie laid down emphatically that "by our occupation of the country, after the whole Sikh nation had been in arms against us, we have acquired the absolute right of conquerors, and would be justified in declaring every acre of land liable to Government assessment He ordered the resumption without exception of grants held by men who had taken up arms against the British Government, whether by choice or compulsion He repeated Lord Hardinge's description of the insecurity of the tenure of *jagirs* under the Sikh Government and of the increased value which the decision of the British Government would give to any assignment that was maintained Every assignee whose tenure was upheld was to give up all deeds of grant which he held from former Governments and to receive instead a *sanad* from the Board declaring that the assignment was the free gift of the British Government Except in a few special cases the *jagirdars* were to be deprived of all police powers, and, every assigned estate was to be assessed "so that the *jagirdars* or other holder should not be allowed to rack rent his tenants or derive more from the land than would be taken by the Government whose place he occupies" Where grants held on condition of service were maintained a cash commutation for the aid which was no longer required was to be fixed

Rules issued by Lord Dalhousie

90 Lord Dalhousie reproduced Lord Hardinge's seven rules with some modifications, and added one of his own In the first rule for the words "on their present tenures in perpetuity" the words "on their present terms subject to future diminution after the death of incumbents" were substituted This alteration was not without significance To the second rule a rider was added providing for the reduction of endowments which appeared to be "exorbitant," and it was remarked that "when grants of great value have been conferred for the maintenance of the State religion . . .. . . they should be restricted to a smaller amount from obvious motives of political expediency" An addition was made to Rule 3 to the effect that long occupancy would of course receive the consideration of

Government The alterations in the other rules were only verbal. The additional rule was as follows —

> "8. Where Chiefs or others hold lands rent free, which were not granted by Maharaja Ranjit Singh or any other ruler, but won by their own swords, they will deserve consideration, and their cases should be specially reported to Government with the Board's recommendation in each case Any particular cases not provided for in the foregoing rules to be reported separately to Government for special orders"

Lord Dalhousie added —

> "Should cases of individual hardship arise from a strict observance of these rules whether from indigence, infirmity, age, or sex, the Governor General, on such being represented, will be happy to relax the severity of the rules or confer a pension upon the object"

91 In circulating these instructions the Board of Administration remarked —

Instructions of Board of Administration

(*a*) with reference to Rule 2, that religious endowments should [illegible]

(*b*) tha[illegible] made by the three Maharajas mentioned before their accession, or by other Chiefs before their time,

(*c*) with reference to the 6th and 7th rules that assignments unsupported by *sanads* or held under invalid *sanads* granted by *kardars*, *nazims* and the like should, nevertheless, be maintained for the lives of the present occupants where possession was of long standing, and that unbroken occupation of 20 25, or 30 years whether by one individual or for two or more generations, should entitle the holder to a life interest,

(*d*) that grants of recent date should when the occupants were old or infirm or for any other reason objects of charity, be maintained for life,

(*e*) that where a *jagir* had been confiscated because the *jagirdar* had borne arms against the British Government, all grants made by him to his dependents should at once be resumed But in cases of small assignments of long standing special recommendations to maintain for life might be made if the holder appeared to be entitled to this indulgence,

(*f*) that grants of land free of assessment enjoyed by the headmen of villages if supported by *sanads* were to be upheld If they had been enjoyed for many years and the amount was not excessive, they were to be maintained for life, or, at any rate, until the revised settlement, even though no *sanad* could be produced,

(g) that lands held revenue free by village servants, if the amount was moderate, were to be upheld until the revised settlement,

(h) that the tenures under which gardens were held were to be liberally dealt with, and if supported by valid *sanads*, or possessed by several generations, were to be recommended for maintenance in perpetuity If resumption was resolved on settlement was to be made with the *ex-mafidar* at the ordinary village rates, and not at garden rates Where the grant was new and the garden existed before it was made, it was to be resumed and the land assessed to the best advantage

Chaudhri's inams

92. Shortly after the Board directed that *inams* or money allowances enjoyed by leading members of village communities before annexation should be upheld for life subject to good behaviour On the death of the *inamdar* the *inam* was to be continued to his son or resumed as might seem expedient The *inam* was to be considered as remuneration for service to Government and to the village community, and the possession of it entitled the holder to be called *chaudhri* *

Grants to *takiyas*

93 Lord Dalhousie's second rule put religious establishments and buildings for public accommodation on the same footing, and directed the maintenance of their endowments for as long as the establishment or buildings were kept up In 1853 the question was raised whether these orders applied to Hindu *dharamsalas* or to the small roadside *takiyas* occupied by Muhammadan *fakirs* Sir John Lawrence ruled that except in special cases grants in support of such buildings should not be released in perpetuity The reasons he gave are characteristic, and are worth quoting—

> *5th* The Chief Commissioner cannot admit that the existence of such grants does *not* encourage mendicancy, but further considers that the existence of these *takiyas* has often a mischievous effect Doubtless, men, who are now *fakirs*, will, for the most part, remain such, their idle habits will prevent their taking to any honest or respectable mode of livelihood But there will no longer exist the same inducement for the young and active to join such people, and the number of their disciples will, at once, fall off The abolition of monasteries in Protestant countries caused that class of men to disappear in a few years, and so will a similar system operate on the communities of *fakirs* In the North Western Provinces, where such endowments are rare the number of this class bear no proportion to those existing in the Punjab, where they have been fostered and cherished
>
> "*6th* —The people are very zealous, no doubt, for the support of such endowments because they cost them nothing, but

*The word *inam* was used for all grants whether in cash or revenue free land other than the *zamindari* or *pachotra* enjoyed by village headmen and *chaudhris* (Financial Commissioner's circular No. 22 of 1856)

if their zeal is genuine and sincere, they will support the *takiyas* themselves Government have sacrificed much revenue in reducing the land tax, in abolishing customs, and giving up vexatious cesses of various kinds which the people are well aware of We can, therefore, afford that they should murmur a little at the loss of their *takiyas*

"*7th* —The Chief Commissioner himself has never looked on these places with favour He has had personal experience of their gross abuse As a magistrate and criminal judge he has often known them to be the resort of thieves, robbers and murderers The whole class of *fakirs* he believes to be a bane to the country

"8th —The Chief Commissioner, moreover does not understand how a *takiya* of the character of that in Chamyari could afford to feed travellers, eight rupees per annum would not go far in this way He believes that the hospitality of the occupant *fakir* is almost always limited to the feeding of his own class and that he does not do more for other travellers than give them a little water, or perhaps, in especial cases a few whiffs of his *hukah* Such being the Chief Commissioner's deliberate opinion he cannot advocate the release of the land in Chamyari, nor agree to reconsider similar cases of the kind in the Jalandhar Doab"

94 The enquiry regarding all service grants and all *jagirs* consisting of one or more estates was carried out by a special officer, Captain Becher The final orders in these cases were passed by the Governor General This, which, politically speaking, was the important part of the investigation, was carried out promptly The Board ordered that the enquiry concerning the smaller grants should be conducted by District and Settlement Officers, and the work was mainly done by the latter It proved a lengthy business, but was nearly complete, except as regards the frontier districts, in 1860

The jagir enquiry.

95 It was found that in *jagir* estates there were plots of land for which revenue was paid neither to the *jagirdar* nor to Government The Chief Commissioner ruled in 1854 that all such tenures should be investigated, and orders passed for release or resumption When any such grant lapses the benefit accrues to the *jagirdar* and not to Government There are some exceptions to this rule, which will be noticed later

Mafis in jagir estates.

96 In the first Punjab Administration Report, which was issued in August 1852, the revenue free assignments and cash pensions which had been enjoyed under the Sikh Government were classified as follows —

Classification of Sikh grants.

" Section I —*Service grants* .. { 1 Military, 2 Civil, 3 Feudal, 4 Household }

Section II —*Personal grants*	5 State pensioners 6 Royal ladies 7 Family provision 8 Allowance to influential landholders
Do III —*Religious grants*	9 Endowments 10 Charitable 11 Holy men

Treatment of different classes of grants

97 The Board described the manner in which they had dealt with the different classes of cases *

"For those grants, which in cash, or in land are allowed in consideration of long service the following rules have been adopted — From twenty five to thirty years' service entitles the party to one fourth of his emoluments thirty to thirty five years to one third thirty-five years to forty and upwards to one half but the first named period viz , twenty five to thirty years, has generally been diminished to fifteen years in favour of *jagirdars*

"In the classified schedule of grants, with regard to classes 1 and 2, namely, grants for military and civil service, it will be remembered that previous to annexation these grants were chiefly in lieu of salaries, when the late Durbar troops were disbanded by the British Government some few of the recipients were taken into British employ, and the remainder were pensioned off on one-fourth, one-third, or one half the grant, as the case might be If the grant was found to be a superannuation allowance, it was maintained in full The same principle obtained with the household grants held by the attendants of the sovereign The feudal grants (class No 3), were held by the great barons and the dignitaries of the State These grants are partly feudal and partly personal That portion of the grant which was conditional on the furnishing of a contingent would be resumed and the horsemen would be generally discharged and pensioned under the rules already given But a portion of the grant was generally an allowance, personal to the feud ef, and this portion would be maintai m for a portion to his legitimate mal in [illegible] either in virtue of prescriptive or grantor's authority, or on special ons influence and antiquity [illegible]

* First Punjab Administration

services With regard to State pensions (class No 5), the grants were maintained for life of incumbents subject to diminution after death In the case of the royal ladies, mostly widows of Maharajas Ranjit Singh, Kharak Singh, and Sher Singh, the landed grants were not maintained, but a money commutation for their lives was effected The family provisions (class No 7), are allowances to the heirs or relatives of deceased chiefs, soldiers, or servants of the State, granted by our predecessors, and confirmed by ourselves They are subject to resumption or reduction after demise of recipients Among the grants which come under the general denomination of personal may be noticed "the *inams*" (class No 8) This term was under the Sikh rule applied to certain deductions made from the revenue of an estate, in favour of some village Chief called a *chaudhri*, who by local knowledge aided the revenue officers in ascertaining the resources of the village, and in collecting the taxes and also in the preservation of order and harmony The agency thus secured, and the influence thus enlisted on the side of the local authorities were important The grants have been generally maintained during the life time of the grantee, upon the condition of general service In the conducting of the new system of settlement, which chiefly works through popular agency, the *chaudhris* have made themselves most useful and their services may, for the future, be turned to good account in the detection and prevention of crime in the management of disorganized estates in the arrangements for the public convenience such as the furnishing of supplies and carriage, repair of roads, and the construction of useful works

"The endowments mentioned in class No 9 are both secular and religious, for the support of temples mosques, places of pilgrimage and devotion schools village inns for the reception of travellers, paupers and strangers, generally of a monastic character These institutions are ornaments to the villages, they have some architectural pretensions and being embosomed in trees, are often the only shady spots in the neighbourhood They add much to the comfort of rustic life and keep alive a spirit of hospitality and piety among the agricultural people The endowments though occasionally reduced in amount, have on the whole, been regarded with liberality, and in confirming them the officers have mainly regarded the utility and efficiency of the institution Such grants, when insignificant in amount, have been maintained even though the original grantor might have been the head man of the village

"The grants to objects of charity, or to persons of sanctity, have frequently been paid in cash, and in such cases have been

brought under the denomination of pension In regard to the charitable grants, indeed with regard to all grants the tenor of paragraph 56 of the Government letter has been observed, and the rigour of the rules has been relaxed in favour of parties, who, from 'indigence, infirmity, age or sex,' might be fitting objects of special indulgence'

Social effects of policy adopted.

98 It is interesting to observe the view taken by Sir John Lawrence a year and a half later of the social effects of the policy described above *—

'The settlement of the country is by the present date assuming its solid and permanent proportions, the transition is well nigh complete, and the country is becoming the Punjab of the British power The feudal nobility of Ranjit Singh the pillars of his State, are tending towards inevitable decay Their gaudy retinues have disappeared, their city residences are less gay with equipages and visitors their country seats and villas are comparatively neglected But the British Government has done all it consistently could to mitigate their reverses, and render their decadence gradual They receive handsome pensions, or they retain for their lives a moiety of their landed grants When any of them have been judged to possess hereditary claims a fair share of their landed fiefs has been guaranteed to them and their posterity in perpetuity They are treated with considerate respect by the servants of the Government, they swell public procession and attend at ceremonial *darbars* The sons of this nobility and of the gentry generally are seeking Government employ, and acquiring a liberal education Their retainers similarly enjoy the bounty of the Government The numerous dependents of the late *régime* are also provided for Not only are the royal widows and their attendants being cared for but also office-bearers of the Court the chamberlains, the mace-bearers the soothsayers the physicians the *sarans* the musicians the men in waiting, are all borne on the pension rolls of the British State All these classes naturally sink into obscurity, and though everything like splendour has vanished yet it has not been succeeded by poverty and the multitude which surrounded and supported the throne of Ranjit Singh and his successors exists in substantial comfort

'The priestly classes have also every reason to bless their new masters The Sikh holy places have been respected The shrines at Dera Nanak Amritsar, Tarn Taran, Anandpur retain a large portion of the endowments which a Sikh Government had lavished on them

* Second Punjab Administration Report, paragraphs 496, 497 and 499

Liberality has indeed been extended to all religious characters, even to mendicant friars and village ascetics These people have been allowed by the thousands to retain their petty landed grants on a life tenure There is hardly a village mosque, or a rustic temple, or a shaded tomb, of which the service is not supported by a few fields of rent free cultivation These classes, though they will not become extinct, will yet greatly fall below their present numbers when the existing generation shall have passed away In the meantime they are kept contented, and their indirect influence on the mass of the population is enlisted on the side of the Government * * *

"Among the agriculturists the influence of the *chaudhris* is on the decline They are a species of local chiefs or principal resident gentry who under the Sikh *régime*, aided in collecting the revenue and enjoyed many privileges and immunities Many of their privileges are maintained to them but, as their services are no longer required, their power is on the wane The undue power of the headmen also over the village communities has been curtailed, but their legitimate position as representatives of the brotherhood has been strengthened and defined * * "

99 In 1852 the Governor General ruled that, when a grant was assigned in perpetuity it lapsed to Government on the failure of legitimate male issue in the line of the original grantee, that is of the person to whom the British Government had confirmed the grant Unfortunately the original orders releasing these *jagirs* provided for their continuance in favour of 'male issue or 'male heirs" or "lineal heirs The fact that this might involve the frittering away among numerous shareholders of a revenue which, undivided, might have sufficed to uphold the dignity of the head of a great family, was either unnoticed or disregarded The efforts which were subsequently made to correct this mistake concern all large *jagirs* throughout the province and before referring to them it will be convenient to describe the origin and peculiar features of the *jagirs* of the Cis-Sutlej and Delhi territories

Grants in perpetuity provided for continuance to 'male heirs."

Assignments in Cis Sutlej States.

100 The *jagir* tenures of the districts formerly known as the Cis Sutlej States have a history of their own No better account of their origin can be found than that given by Mr Kensington in the "Ambala Gazetteer , which is reproduced in the following paragraphs —

History of jagir tenures of Cis-Sutlej States peculiar

The storm burst at last in 1763 The Sikhs of the Manjha country * * * * * * combined their forces at Sirhind, routed and killed the Afghan Governor, Zain Khan, and * * * * * occupied the whole country to the Jamna without further opposition 'Tradition still describes how the Sikhs dispersed as soon

The Sikh conquest.

as the battle was won, and how riding day and night, each horsemen would throw his belt and scabbard, his articles of dress and accoutrement, until he was almost naked into successive villages to mark them as his'* The chiefs hastily divided up among themselves and their followers the whole country to the Jamna, and asserted themselves as rulers of the people In a very few cases such as those of the Saiyyid Mir of Kotaha and the Raipur and Ramgarh Rajput Sardars of Naraingarh, and the Badwan Jat Sardars of Kharar, the indigenous leaders of the country were strong enough to hold their own after a fashion, and to assimilate their position to that of their conquerors Elsewhere the Sikh rule was supreme, and the experience undergone by the people of the district at the hands of these merciless invaders has left its mark on the country to the present day

State of country before the Chiefs were taken under British protection.

"The history of the next forty years is made up of the endless petty warfare of these independent Sikh chiefs among themselves, except when a common danger banded them to resist the encroachments of the more powerful States of Patiala and Manimajra on the north, and Ladwa, Kaithal and Thanesar on the south Each separate family and each group of feudatories strong enough to stand alone built itself a strong fort as a centre from which it could harry the whole neighbourhood Many of these are still in existence, and a marked feature of the district, recalling the extraordinary lawlessness of a period when literally every man's hand was turned against his brother No attention was paid to the country by the British Government, which had fixed the Jamna as the furthest limit for political enterprise, and it is believed that profoundest ignorance prevailed both as to the constitution the rights, and the political strength of the supposed rulers

Cis-Sutlej chiefs taken under British protection in 1809

"From 1806 to 1808 the position rapidly changed On the one hand the Cis Sutlej chiefs themselves were panic struck at the sudden danger threatened to them by the rise of Ranjit Singh's power from beyond the Sutlej In the three successive years 1806 to 1808 raids were made by Ranjit Singh in person to Ludhiana, to Naraingarh, and to Ambala It was openly announced by him that he intended swallowing up the whole country to the Jamna and it was realized that one power, and one only, could prevent his immediate success On the other hand, the British Government feared a new danger from the north by a combined invasion of the French, the Turks, and the Persians, and it was hastily decided to give up the Jamna as the boundary, and to trust to the new principle

* Cunningham's History of the Sikhs, page 110

of alliance with a strong buffer State at Lahore At the same time it was recognized that Ranjit Singh was himself a source of danger not to be despised, and with the Government in this mood in 1808,* an impulse was easily given to the policy of active interference by the arrival at Delhi of a deputation represented by Jind, Patiala, and Kaithal, to invoke assistance for the Cis Sutlej States.
* * * * * It was apparently assumed that the whole territory to the Sutlej was parcelled out among a few leading States of the same character through whom the country could be strongly governed, and the efforts of the authorities were aimed at the two fold object of, on the one hand, securing an effective alliance with Ranjit Singh and on the other, extending British protection to these lesser States ranging from the Jamna to the Sutlej The overtures were eventually successful and a definite treaty was made with Ranjit Singh on the 25th April 1809 by which he surrendered his new acquisitions south of the Sutlej † and bound himself to abstain from further encroachments on the left bank of that river The treaty was followed up in May 1809, by the celebrated proclamation of Colonel Ochterlony, on behalf of the British Government to the Cis Sutlej Chiefs This proclamation beginning with the quaint wording that it was clearer than the sun and better proved than the existence of yesterday that the British action was prompted by the Chiefs themselves is given in full * * * at page 122 of the Punjab Rajas It includes seven short articles only, of which Nos 1 to 5 are important Nos 1 to 3 limited Ranjit Singh's power and declared the Cis Sutlej Chiefs sole owners of their possessions free of money tribute to the British while Nos 4 and 5 required them in return on their side to furnish supplies for the army and to assist the British by arms against enemies from any quarter as occasion might hereafter arise ‡

State of Cis Sutlej States not understood when protection was granted

"It is impossible to read the history of these transactions without seeing that the Government were in reality taking a most important step almost in the dark Instead of finding the Ambala territory under the control of a few central States they soon realized that they had given it over for ever to hordes of adventurers with no powers of cohesion who aimed only at mutual aggression and whose sole idea of government was to grind down the people of the country to the utmost limit of oppression

* Ma h 1808 [illegible]
†
nearly
[illegible]

The first point was easily settled by a sharp reminder given in a supplementary proclamation of 1811,* that every man would have to be content with what he held in 1809, and that the British Government would tolerate no fighting among themselves It was, however, found that as a fact the so called Cis Sutlej Sovereign States were represented as far as Ambala was concerned, by some thirty petty rulers with estates ranging from 20 to over 100 villages, and by a host of small fraternities comprising many hundreds of the rank and the file among the followers of the original conquerors who had been quartered over the country with separate villages for their maintenance and who were all alike now vested with authority as independent rulers by the vague terms of the proclamation of 1809 Published works have nowhere very clearly recognized how sorely the Government repented of its mistake but there seems no doubt as to the facts, and it is not to be wondered at that Sir David Ochterlony should have privately admitted to the Governor General in 1818 that the proclamation of 1809 had been based on an erroneous idea †

Relations of British Government with Cis-Sutlej Chiefs and fraternities between 1809 and 1847

"From 1809 to 1847 persistent efforts were made to enforce good government through the Political Agency at Ambala among the endless semi independent States The records of the time bear witness to the hopeless nature of the undertaking They teem with references to the difficult enquiries necessitated by the frequent disputes among the principalities by their preposterous attempts to evade control and by acts of extortion and violent crime in their dealings with villages ‡ Year by year Government was driven in self defence to tighten the reins and every opportunity was taken to strengthen its hold on the country by enforcing its claims to lapse by escheat on the death without lineal heirs of the possessors of 1809 or their descendants It was thus that the British district of Ambala gradually grew up each successive lapse being made the occasion for regular settlements of the village revenues and the introduction of direct British rule At the same time Government scrupulously observed the engagements of 1809 and with the exception of the prohibition of internal war by the proclamation of 1811 the powers and privileges of the Chiefs remained untouched Each Chief great and small alike had within his own territory absolute civil, criminal and fiscal jurisdiction subject only to the general authority of the Agent to the Governor General No tribute was taken from them and though they were required in the case of

* Pages 127 128 of the "Rajas of the Punjab"
† Cunningham's History of the Sikhs, page 152
‡ Compare paragraph 60 of "Karnal Gazetteer"

war to aid the Government, yet no special contingent was fixed The right of escheats was the sole return for its protection which the Government demanded. Throughout a long period of peace, during which, while north of the Sutlej every vestige of independence vanished before the encroachments of Ranjit Singh, the Cis Sutlej Chiefs enjoyed a complete immunity from invasion, and retained undiminished rights of sovereignty After thirty six years, with the exception of a few States which had lapsed from failure of heirs, each Chief still found himself the ruler of the territory which he or his fathers had held at the time when they passed under British protection

Misconduct of Cis Sutlej chiefs in 1st Sikh War

"In 1846 47 a fresh step had to be taken owing to passive obstruction or open hostility on the part of the Chiefs when call d on to assist the Government with supplies and men during its campaign against the Trans Sutlej Sikhs in 1845 No occasion had occurred for testing their gratitude for the benefits secured to them until the declaration of the first Sikh War and the Sutlej Campaign of 1845 But when tested it miserably failed Throughout the war few of the Chiefs displayed their loyalty more conspicuously than by abstaining from open rebellion Their previous conduct had not been such as to encourage the British Government in its policy towards them Almost without exception they had abused its indulgence, and made the security of its protection a means of extortion and excess of every kind There was nothing whatever to admire in the internal management or administration of their estates as was amply testified by the universal satisfaction with which the peasants of those estates which from time to time had lapsed came under direct British management It has been well said that independence for these Sikh Chiefs had no nobler significance than the right to do evil without restraint and to *oppress the people who were so unfortunate as to be* their subjects *

Chiefs and fraternities reduced to the position of *jagirdars*.

"Having thus already lost the confidence of the Government, the Sikh Chiefs in the Sutlej campaign forfeited all claim to consideration It was seen that the time had arrived for the introduction of sweeping measures of reform, and the Government unhesitatingly resolved upon a reduction of their privileges Several important measures were at once adopted The police jurisdiction of most of the chiefs was abolished the existing system being most unfavourable to the detection and punishment of crime All transit and customs duties were also abolished, and, thirdly, a commutation was accepted for the personal

* Griffin's Rajas of the Punjab page 200 Ed. II.

of the descendants of bodies of horsemen who overran the country when it was first conquered, or who were called in later to help the original conquerors to hold it. These fraternities divided amongst themselves the villages which they seized in horsemen's shares.

Where they maintained or acquired a position independent of the great Sardars their tenures are known as *pattidari jagirs*. Where their holdings were subordinate to those of the Sardars, who claimed the right to lapses of heirless shares, they were called *zaildari jagirs*.

Customary law regulating the succession to tenures of Cis-Sutlej Chiefs before 1851.

105. The best source of information as to the rules governing the succession to the estates acquired by the Sikh conquerors of the Cis-Sutlej territory before we reduced them to the status of *jagirdars* is Sir Lepel Griffin's "Law of Inheritance to Chiefships as observed by the Sikhs previous to the annexation of the Punjab" published in 1869. In the stormy years before 1809 individual ambitions sometimes made short work of hereditary titles. But the conclusion to be drawn from the facts which Sir Lepel Griffin recorded is that the real rule of succession was identical with that prescribed by the customary law regulating the descent of landed property in the Punjab. It was but natural that peasants who suddenly found themselves princes should apply to their conquests the only law of inheritance with which they were familiar. It is noteworthy how often between the date of conquest and 1847 the title of a sonless widow to succeed to the enjoyment of wide possessions and authority was admitted; when the right was overridden this was frequently managed in a perfectly legal way, still customary throughout large parts of the Punjab, by means of a *karewa* marriage between the widow and her deceased husband's brother. Information regarding customary law was much more meagre when Sir Lepel Griffin wrote than it is now. Had it been otherwise he would probably have modified many of the expressions and some of the conclusions in his book, and distinguished more clearly between successions which took place before the date of protection and those afterwards enforced by the conflicting decisions of our Political Officers. Definite rules have been made to regulate the succession to *pattidari* and *zaildari jagirs*, but "The Law of Inheritance to Chiefships" can still be profitably referred to when questions arise as to the descent of "large estates."

***Pattidari jagir* rules to be first described.**

106. The *pattidari jagir* rules will first be explained, and the matters in which the tenures of *zaildars* and of the holders of "large estates" differ from that of *pattidars* will then be noticed.

Succession to *pattidari jagirs*.

107. In 1851 the Government of India laid down the three following rules to regulate successions to horsemen's shares in *pattidari jagirs** :—

(1) That no widow shall succeed.

(2) That no descendants in the female line shall inherit.

(3) That on failure of a direct male heir, a collateral male heir may succeed if the common ancestor of the deceased and

* Government of India No 461, dated 12th February 1851.

the collateral claimant was in possession of the share at or since the period 1808 09 when our connection with the Cis Sutlej territory first commenced

Lord Dalhousie added "Though the rule now laid down may be at variance with the course which has been actually taken in many cases, the Governor General would by no means disturb the decisions which have been given All parties who have received possession from a British Officer should retain it for their lives, except females, who should receive pensions instead This referred to a proposal by the Board that widows and daughters should be given money pensions, not exceeding half their husbands or fathers share In 1853 the Government of India decided that a title in perpetuity could not be acquired through females, but that males who had inherited through females would be left in possession of their shares for life*

Existing holders not entitled under the rules to retain possession for their lives if males and to receive pensions, if females

108 The rules do not apply to the conquests on the right bank of the Sutlej made by Maharaja Ranjit Singh, or his dependent Fatteh Singh Ahluwalia of Kapurthala before March 1808, which they retained after the treaty of 25th April 1809 was made These were annexed after the first Sikh War, and presumably the rules referred to in paragraph 87 apply to them as well as to conquest *jagirs* in the tract between the Beas and the Sutlej which was ceded by the Lahore Darbar at the same time †

Rules not applicable to part of Cis Sutlej territory annexed after the first Sikh War

109 The first of the rules of 1851 was seemingly not in accordance with custom which would have given a sonless widow a life interest in her husband s share But if any injustice was done it was redressed by the Board of Directors who in 1854 ordered that widows who had been dispossessed should have their pensions raised so as to equal in value the *jagirs* which they had lost, and that widows still in possession should not be disturbed unless they agreed to take pensions in lieu of their *jagirs* ‡ The second rule is quite consonant with customary law It appears that political officers had in some cases contrary to that law recognised the succession of daughters and daughters sons The third rule was that proposed by two of the three members of the Board—Sir John Lawrence and Mr Mansel The President Sir Henry Lawrence preferred the principle which had been followed in deciding the succession to the large estates of Jind and Kaithal, namely, that, without any reference to the state of possession in 1808 09, a male descendant of the first conqueror or occupant should inherit all that had been acquired by the head of the family before the collateral branch split off from the main stock and became master of a separate estate

Remarks on the rules

110 Family custom is upheld as regards succession when it does not conflict with these rules. The custom regulating division between sons by different mothers known as *chundavand*§ will for

Family custom upheld when not inconsistent with the rules.

§ ... respectively as *chundavand* and *pagvand* or *bhaiband* see Glossary

example be followed where it is shown to prevail in the particular family concerned

Subsidiary rules sanctioned in 1852

111 As the enquiry proceeded it be[came] evident that the three rules sanctioned in 1851 did not completely cover the ground, and eight subsidiary rules proposed by Mr Edmonstone the Commissioner of the Cis Sutlej States were sanctioned by the Board in 1852 * These are reproduced in Appendix III to Barkley's Directions for Settlement Officers It is only necessary to quote four of them here—

(a) That a specific order of Government, even though opposed to the principles and rules now prescribed, shall avail in favour of the party concerned and his lineal male heirs

(b) That the official and recorded declaration of the Political Agent as to the person in possession in 1808-09 shall be accepted without question and succession continued accordingly

(c) That alienation by a jagirdar or pattidar of portions of his holding whether to his relations or strangers, shall neither be officially recognized nor officially recorded

(d) That [when] sons of a common ancestor in 1808-09 [are] entitled to the whole share possessed by such common ancestor shall be held and be declared responsible for the maintenance of widows left by deceased brothers, who had they lived, would have shared with such son or sons

Investigation of pattidari jagirs at first regular settlement of Cis Sutlej States

112 To ensure the carrying out of the third of Lord Dalhousie's rules the Settlement Officer of the Cis Sutlej States was ordered to investigate the state of possession in 1808-09 and to draw up a genealogical tree of every family in occupation of a share of a pattidari jagir tracing the descent of existing holders from the persons in possession at that period Family, when used in connection with a Cis Sutlej jagir means a group consisting of the male descendants of the holder of the jagir in 1808-09

Revision of jagir registers of Ambala and Karnal at revised settlements

113 At the revised settlements of Ambala and tahsils *Thanesar and Kaithal and pargana Indri of Karnal made by* Mr Kensington and Mr Douie, the jagir registers of these two districts were scrutinized, and new registers in a more compact and convenient form were drawn up These include all the three classes of Cis Sutlej jagirs The conditions of each jagir with a reference to the order determining them, and the rate of the commutation paid to Government, were noted A genealogical tree of each family showing all existing descendants of the person in possession in 1808-09 or other date which determines the right of succession, and a list giving the name of each of the shareholders of 1888 with the fraction representing his share and the value of that fraction in money, are included in the new registers and a simple method of recording successions and lapses has been provided

* Board's letter No 207, dated 21st January 1852

The rule of succession followed where there are sons by two or more wives will be found recorded in the registers

114 As already indicated, the only real difference between a *pattidari* and a *zaildari jagir* is that lapses in the former benefit Government, while lapses in the latter accrue to the holder of a "large estate" It was ruled in 1852 at Mr. Edmonstone's suggestion—

Rules regarding *zaildari jagirs*

(*a*) That the enquiry then being made into *pattidars' jagir* tenures should not extend to the possessions of the *zaildars* or dependants of an individual Sardar, during the life time of such Sardar

(*b*) That on the estate of that Sardar lapsing, the possession of his *zaildars* should be enquired into, ascertained, and recorded, and that from and after the date of the lapse of the Sardar's estate, lapses of the *zaildars'* shares and successions to the same should follow the first and second of the rules prescribed by the orders of Government, No 461, dated 12th February 1851

115 The wording of the second of these rules is not very explicit, but it seems clear that Mr Edmonstone's meaning was that in the case of *zaildari jagirs* dependent on a "large estate," the enquiry should only go back to possession as it stood at the time when the "large estate" lapsed, and extend to successions which had taken place since This was the course actually adopted in the case of the *zaildars* of the Dialgarh State which lapsed about the time when Mr Edmonstone made his proposals They were given the status of 1852 The intention of the rule was either overlooked or misunderstood, for at the first regular settlements of Ambala and Thanesar the *zaildars* of several lapsed estates were given the status of 1808 09, and it has been decided that the orders then passed shall not be disturbed *

Meaning of the second rule

116 In 1854 the Chief Commissioner, at the suggestion of Mr Edmonstone who had become Financial Commissioner, modified the two rules relating to *zaildari* tenures quoted above, and decided that 1817 the year in which the Sardars were deprived of their sovereign powers, should be assumed as the basis of adjudication in all disputes between *jagirdars* and *zaildars* as to the shares of the latter It is clear from the correspondence which took place at the time that the reason for taking the date 1817 instead of 1809 was to protect the *zaildars* from harsh claims on the part of the Sardars It was felt that endless disputes and claims would arise if the status of 1808 09 were taken as defining the tenure of the former It was soon seen that the new rule cut both ways and would in the future be prejudicial to the *zaildars* and in 1856 the Commissioner of the

Status of 1817 given to *zaildars* of large estates in existence in 1854

* Paragraph 92 of Karnal Ambala Settlement Report While certain *zaildari jagirs* were accidentally given the status of 1808 09 the *patt dari* tenures of the *chaharams* [illegible] only [illegible] tified [illegible] pages [illegible] For

Cis Sutlej States tried to have the rule modified, but without success. All *zaildars* of "large estates" still in existence in 1854 have therefore the status of 1847.*

Peculiar rules regulating succession in case of jagirs of Maharaj in Ferozepore

117. The numerous peasant *jagirdars* of Maharaj and Bhucho in Ferozepore, who claim kinship with the great Phulkian houses, own their *jagir* [illegible] Government has given u[illegible]ty increase in the rate [illegible] the law of inheritance applicable to the landed estate. Hence widows enjoy their husband's shares so long as they refrain from a second marriage.†

No absolute rule prescribed to regulate succession in 'large estates'

118. In the orders passed in 1851 Lord Dalhousie stated that he did "not see any necessity for establishing an absolute rule in the case of 'large estates.' Each case may without any difficulty and with great advantage be determined upon its own merits as it arises. His Lordship would, however, remark generally that consideration of the custom of families should have a preponderating influence in the decision of such cases." Such estates were therefore excluded from the enquiry which the Settlement Officer was directed to make regarding *pattidari jagirs*, and the Board ordered that each demise should be reported with a statement of the custom of the family.

Meaning of 'large estate'

119. Some difficulty was felt in determining what was and what was not a "large estate." Mr Edmonstone wrote to the Board:—

> "I presume that the term 'large estate' was meant to comprehend such estates as Buria, Shahzadpur, Manimajra, Sialba, and others, which are held not by fraternities of *pattidars*, as the *pattidars* of Bilaspur, Sadhaura, Thirwa, Ambala and Boh, for instance, in fractional horsemen's shares but by an individual Sardar, as the Sardar of Buria, or by the descendants of one or more Sardars, as the Singhpurias. I find it difficult to propose any definition of the term 'large estate,' and am compelled therefore to exemplify my meaning. If the Board concur with me in thinking that the term is not exclusively applicable to the nine sovereign states, it might be sufficient to declare generally that the orders communicated with your letter above referred to are applicable only to estates which are held by fraternities of *pattidars*, and in which the distribution of the holding according to horsemen's shares is recognized, leaving any cases which may admit of doubt after the declaration of this principle to be specially reported. Under this rule, the estates of Buria and Raipur, in regard to both of which I have received separate references from Mr Wynyard, would be considered 'large estates,' and exempt from enquiry into the status of 1808-09."

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* Paragraph 90 of Karnal Ambala Settlement Report.

† See paragraph 84 of Appendix III to Barkley's Directions.

The Board accepted as correct Mr. Edmonstone's view.

Status of 1808 09 how far applicable in case of large es tates

120 It is stated in Mr Barkley's Directions to Settlement Officers .—

> "In practice the status of 1808 09 though not absolutely prescribed for guidance by Government, has almost invariably been referred to as governing claims of collaterals to succeed to large estates, the custom of the family being referred to only to determine whether the estate should descend integrally or be divided among the nearest heirs, either in equal or unequal shares, what provision should be made for widows, and other points of the like nature"

Few precedents available

121 As early as 1859 we find the Commissioner of the Cis-Sutlej States in a letter dealing specially with large estates writing that "we have taken the status of 1809 A D, and have declared all *jagirs* separately held at that date as separate fiefs inheritable only in a direct male line' But it seems doubtful if the question whether the status of 1808 09 does or does not govern succession to large estates has often been discussed Very few ' large estates" have lapsed in default of "direct heirs, though it is notorious that in some cases the present *jagirdars* are unrelated either to the original conqueror or to the Sardar in possession in 1808 09 No shame has been felt in foisting on Government supposititious heirs when the succession to a *jagir* was endangered by want of issue

quest on who was in posses s on in 1808-09

122 No question is likely to arise in the c[illegible] as to the exact date referred to in the phrase tl[illegible] The record of the persons in possession in [illegible] first regular settlement would be treated as finally deciding from whom a claimant must trace descent in order to inherit a share But large estates were exempted from enquiry in 1851, and if the status of 1808 09 is taken as determining the succession to a large estate, it may be necessary to decide who was in possession at a particular date in the period loosely described as 1808 09 In such a case the best date to adopt is March 1808, that being the month in which some of the principal Cis Sutlej Chiefs formally applied for the protection of the British Government

Family custom governs succession in case of large estates

123 In dealing with the succession to a "large estate," Lord Dalhousie directed that special attention should be given to family custom Primogeniture will be followed where it is the established custom as it is in the case of the Pathan Nawabs of Kunjpura and in the Rajput *jagirdar* family of Raipur It is probable that among Jat or Khatri Sikh *jagirdars*, no family will be found in which primogeniture is really customary But in some families it is undoubtedly the rule to give a particular son a share larger than that allotted to his brethren under the name of Sardari to mark the fact that he is the head of the family Where any such custom is shown to prevail, it should be enforced

The issue of a *vyah* or sacramental marriage with a virgin, and of a *karewa* or informal marriage by *chadar-andazi* with a widow, are equally legitimate, and when the rule of division between

sons prevails stand on the same footing It was ruled in the case of the Kheri *jagir* in Ludhiana that legitimate sons would always exclude illegitimate in the succession to 'large estates'* Whether illegitimacy as we understand the term is a bar to succession when there is no legitimate offspring is a question to be decided if possible by the custom of the family concerned The sons of handmaids (*khwas*†) have succeeded to independent Rajput chiefships in the absence of children by wedded wives, and if a similar custom is pleaded in connection with any Cis Sutlej *jagir*, the claim cannot be set aside at once as preposterous for the customs of Jats of the Punjab as regards marriage and legitimacy resemble those of a primitive Eastern Society, as depicted in the books of Genesis and Ruth, rather than the law of European countries In the case of the Sohana *jagir*, which belongs to a Jat Sikh family indigenous to the Ambala district it was lately held that the Sardar's son by a Jat widow of good family living in his house and whom he could have espoused, but with whom no ceremony of *chadar-andazi* had been performed, is entitled to inherit The reason given was that a similar case had occurred in the family years before The issue of an adulterous connection with a married woman would of course be excluded

Maintenance to widows and others

124 The amount of the maintenance to be given to widows of deceased holders should be decided mainly with reference to past practice, and this also applies to the allowances to male members of a family in which primogeniture has been established by custom or agreement

***Jagirs* shared by Jat Sikhs from the Manjah and influential local Chiefs or families.**

125 When the Sikhs overran the country between the Sutlej and the Jamna, they found some Chiefs and families who were too strong to be dispossessed Hence we find among the Cis Sutlej *jagirs* some large estates held by Rajputs like the Raos of Raipur or Pathans like the Nawab of Kunjpura Some influential families were conciliated by being allowed to retain a share of the revenues of conquered villages A case of the kind is that of the *chaudhris* of Kharar who have a seventh share of the revenue of 42 estates They were put on the same footing as regards lapses and commutation as other Cis Sutlej *jagirdars*, except that the succession was limited to heirs male of the person in possession in 1853, when the above orders were passed In the same way in the Jagadhri tahsil of Ambala a Rajput family has a share in the Leda *jagir*, and the Afghans of Khizrabad divide the revenues of eleven British and some Kalsia villages with Jat Sikhs, and have always been treated as ordinary *jagirdars*

***Chakarami* tenures in tahsil Thanesar of the Karnal district.**

126 There is a strong analogy between these mixed *jagirs* and the *chakarami* tenures in the Thanesar tahsil of Karnal described in the 96th paragraph of the Karnal Ambala Settlement Report But they have not been treated in quite the same way The *chakarami* *khwas* are for the most part full owners or have superior

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* Punjab Government No. [illegible]66 dated 23rd June 1860

† Such sons are known in the hills as *sartora*. In 1893 the succession of a *sartora* son to the Wazir Pupl *jagir* in Kulu was sanctioned, the opportunity being taken of modifying the conditions on which the *jagir* was held.

proprietary rights in the lands of which they enjoy a share, usually half, but sometimes one fourth or one fifth of the land revenue * The shares are often extremely small, and lands subject to the *chaharami* right have not infrequently been sold or mortgaged, the *chaharami* passing with the land to the transferee No final decision as to these tenures was arrived at at the first regular settlement, and the conditions on which these peculiar assignments are held were only finally settled in 1889 There was it was allowed, no real analogy between *chaharamis* and *zaildari jagirs*, but Sir James Lyall considered that it had been the intention of the Settlement Officer at the first regular settlement to treat them as on the same footing He accordingly gave the following ruling —

> "According to this view the *chaharami* holdings in each village will be treated as *zaildari* holdings created by the original Sikh *jagirdar* conquerors of the village, and so long as in each village a part of the Sikh *jagir* remains unresumed so long these holdings will not be resumed Whenever in any village the whole of the Sikh *jagir* has lapsed the whole of the *chaharami* grants will be resumed at once Till then, in accordance with the analogy of Rule 12 (V) of the supplementary rules for *jagirdars*, alienations will not be treated as a good ground for resuming part of a *chaharami* grant'

The contingency of the whole of the shares held by Sikh *jagirdars* in the *chaharami* estates lapsing is probably a very remote one, but it may be pointed out that it is not a feature of the *zaildari* tenure that the shares of *zaildars* should lapse to Government when the major *jagir* escheats of which they are dependents

Mafis in Cis Sutlej khalsa estates

127 Ordinary *mafis* in *khalsa* estates in the Cis Sutlej territory are governed by the same rules as those in the Punjab proper The case of *mafis* in *jagir* and shared estates will be noticed later

Assignments in Delhi territory

Mr Barkley's remarks on assignments in the Delhi territory

128 It is stated in Mr Barkley's Directions for Settlement Officers† published in 1875 that investigations in the portions of the (province) which were formerly under the Government of the North Western Provinces, made prior to their annexation to the Punjab, took place under the Regulations XXXI and XXXVI of 1803, and tenures released in perpetuity under these regulations descend by the ordinary law of inheritance and are transferable Where any limitation was imposed by the terms of the grant either upon the succession or upon the right to transfer the tenure, this of course does not apply, and the Punjab rules are applicable to the fullest extent to grants made after 1857 ' This statement of the case requires some amplification and correction

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* *Chaharami* properly means the right to one-fourth of the produce of the land or to one-half of the ruler's share it being assumed that a Chief was entitled to take one half of the produce of the soil.

† Paragraph 4 of Appendix III to Barkley's Directions.

Regulations XXXI and XXXVI of 1803

129 Regulation XXXI of 1803 declared what grants other than "royal" or "*badshahi*" grants should be considered valid in the "*ceded provinces*", and *provided for their registration and for* adjudication upon them in the courts of law Regulation XXXVI of 1803 enacted similar provisions for "royal grants," *i e*, "all grants made by the supreme power for the time being" The full definition of royal grants includes assignments made by several authorities who were only nominally subject to the Delhi Emperor, but probably all "royal grants" in the Delhi territory emanated direct from the Emperor or from Daulat Rao, Sindhia, or one of "his predecessors in authority" as Mayor of the palace *

Assignments confirmed under the Regulations regarded as *private property* and therefore transferable

130 The theory of the nature of a land revenue assignment embodied in these two regulations is wholly opposed to that which has always been held regarding such grants in the Punjab They were looked upon as private property which could be transferred from hand to hand. *Revenue free tenures* were classed as "*hereditary,*" *i e*, perpetuity grants, and "life" grants "Hereditary" grants were transferable by gift, sale, or otherwise, but in the case of life grants the only alienation permitted was a mortgage of the revenue for the life of the grantee † It is needless to describe what under these regulations were declared to be sufficient grounds for accepting a claim to hold land revenue free It is enough to note that assignments of land not exceeding ten bighas‡ in extent and "*bona fide* appropriated as an endowment for temples or for other religious or charitable purposes' were put on a specially favourable footing in this respect Certain unfamiliar terms which are met with in discussions regarding assignments in the Delhi territory, *altamgha, aima, madad m'ash, taiul*, are explained in the glossary §

The regulation law not strictly applicable to the Delhi territory

131 The Delhi territory formed no part of the "*ceded provinces,*" which came under British rule in 1801, and to which the above regulations alone applied It was part of the "conquered provinces" annexed after the battle of Laswari in 1803 Regulation VIII of 1805, which extended these and other regulations to the "conquered provinces' excepted the Delhi territory from their operation But Regulation V of 1832, which abolished the office of Resident at Delhi and annexed the Delhi territory to the jurisdiction of the Sadr Board and Courts of Justice at Allahabad, enjoined the Commissioner of Delhi and all officers under his control ordinarily to "conform to the principles and spirit of the regulations" in their civil, criminal, and revenue administration In 1838 and 1841 the Sadr Board issued orders regarding the investigation of revenue free tenures, which *were not in exact accordance with the regulation law* ||

* Section II of Regulation XXXVI of 1803
Section XXIV of Regulation VIII of 1805
[illegible] and the same [illegible].

|| Letter No. 46, dated 23th August 1838, from the Sadr Board of Revenue to the Commissioner of Delhi
Sadr Board's Circular O., dated 30th November 1841 (Reprinted in Punjab Government Revenue Proceedings No. 2 of November 1880).

192 The question of the conditions on which assignments in the Delhi territory made before its annexation to the Punjab was carefully gone into in connection with the revenue free tenures of tahsil Panipat and pargana Karnal of the Karnal district, a report on which was furnished by Mr Ibbetson in 1880 * It was then held— *Orders passed in 1880*

(a) that the regulations were never actually in force in the Delhi territory While, therefore, any orders which the revenue authorities of the day passed in accordance with the regulation law should be upheld, Government was also free to maintain orders, if any, passed by them in special cases which were not in accordance with that law,

(b) that "hereditary" grants were alienable, as similar grants under the regulation law were, but that they lapsed to Government on entire failure of heirs of the original grantee notwithstanding any intermediate alienation,

(c) that the condition "continued until further orders" found to be attached to some of the assignments was analogous to the condition "during the pleasure of Government" common in the case of grants in the Punjab It was not equivalent to a grant in perpetuity, though the contingency of the grant being really a perpetual one was not definitely excluded, as in the case of an order sanctioning an assignment "during the pleasure of Government," which implies an absolute decision that a perpetuity title has not been made out,

(d) that it was the intention that orders passed by a Settlement officer confirming assignments of less than ten bighas as an endowment for temples or other religious or charitable purposes should be final, and that the assignments should be released in perpetuity,

(e) that the Board of Revenue of the North Western Provinces had no power to sanction release in perpetuity Where an order of the Board is the only sanction for such a release, the confirmation of the Punjab Government is required Final sanction not having been given in the case of such assignments before 1858, they are not transferable

193 Being regarded as private property assignments made before 1858 in the Delhi territory descend by the rule of inheritance applicable to landed estates to which the grantee's family is subject Any express condition of a grant, however, which conflicted with this rule, would prevail *Succession to perpetuity grants*

194 The revenue free tenure known as *istamrar* is not wholly confined to the Delhi territory † But as the large Mandal grant in connection with which the incidents of this tenure have been chiefly *Istamrar grants*

* This report and the correspondence connected with it will be found in Punjab Government Revenue Proceeding No 2 for November 1880 which should be referred to by any one requiring further information on assignments in the Delhi territory

† The Khattak Nawab of Teri holds a large tract in the Kohat district in *istamrar*

discussed is situated in the Karnal district, it will be well to explain the term here An *istamrar* is simply an assignment for life or perpetuity of the right to receive the revenue of a tract of land, subject to the obligation to pay to Government a lump sum of money year by year This sum is sometimes loosely described as a quit rent It is really a *nazrana* of fixed amount The *istamrardar* may also be sole proprietor or may have the right of a superior owner or *talukdar* in the assigned tract But, whatever may have been the real origin of any such rights which he may possess, they are under our revenue system viewed as something entirely apart from the *istamrar* Except as regards cesses imposed in addition to the land revenue Government neither gains nor loses by the re-assessment of estates held on an *istamrar* tenure, and any losses due to remissions fall on the *istamrardar*

Sukhlambari grants in Hissar

185 The *sukhlambari* grants in the Hissar district are grants of land revenue free for three generations made to troopers and officers of regiments of irregular cavalry disbanded after the conclusion of the Pindari campaign in 1818 or 1819 As revenue free assignments they are now nearly extinct, and are only interesting as an early experiment in the colonization of waste lands *

Inams of Biloch tumandars

186 The history of the *jagirs* or *inams* of the Biloch *tumandars* of the Dera Ghazi Khan district present some peculiar features and is also deserving of notice on account of the emphatic way in which the principle that *jagirs* involve an obligation of service has been asserted and enforced An excellent account of it is given in the 98th paragraph of Mr Diack's Settlement Report, from which the following extracts are taken —

> "The greater part of the assigned land revenue is enjoyed by the Chiefs of Biloch tribes, and is well repaid by the important administrative and magisterial functions which they discharge It was not until the last settlement that any considerable amount of revenue was assigned to them From annexation up till then they occupied the position of *mustajirs* that is to say, they collected in kind from their tribes the share of the produce, varying from one seventh to one-third, which was under native rule taken by Government and they paid into the treasury the cash land revenue assessed upon the villages of their tribe At the regular settlement of the district it was decided that assignments of land revenue should take the place of the profits which, owing to mild cash assessment, increase of cultivation, and rise of prices, they derived from this arrangement The cash value of the assignment to each Chief was fixed with reference to his previous income from this source to his expectations and to his responsibilities But although the value of the assignment was

* For details see paragraphs [illegible]–201 of Mr Wilson's Sirsa Settlement Report and Hissar Gazetteer, pages 160-161

calculated in cash, the power of collecting in kind was not withdrawn but was merely limited to selected villages, whose cash assessments made up the sanctioned amount of the chief's *inam* The power of collecting *assigned revenue in kind was legalized by Frontier* Regulation No VII of 1874 The custom of collecting in kind had fallen into abeyance in two tribes, those of the Kasranis and the Khosas, and was not revived in the former tribe, but was in the latter to the extent of one fourth of the revenue The share of the produce to be taken by the Chief was to be fixed so as not to exceed that portion of the produce which might be deemed fairly to represent the Government demand

* * * * * *

All the grants were conditional upon good and loyal service to be rendered by the *tumandars* on occasions of importance whenever called upon by the district officer, and in connection with this condition it was stipulated that *sowars* should be supplied by each Chief to a certain value, the *sowar's* pay being fixed at 4 annas a day, any *sowars* required in addition to the number making up the fixed value to be paid by Government The assignments were made for term of settlement and subject to reconsideration on its expiration The grants have had an excellent effect in improving the condition of the Chiefs and through them of their tribes which are generally in excellent control, and there was no question at this settlement of discontinuing the allowances to the Chiefs The working of the system by which they are allowed power to collect in kind was however considered very carefully with reference to the provision which had been made at the regular settlement, that the power would be enjoyed only during the pleasure of Government, and would be liable to be withdrawn should such a course be deemed to be expedient The conclusion arrived at was that the system should be continued except in the Khosa tribe *

* * * * * * *

The decision to continue the privilege in the case of the other Chiefs who had hitherto enjoyed it, necessitated a reconsideration of the cash value of the *inams*, for in villages which have improved during the period of the late settlement the share of the produce taken by the *tumandar* is the equivalent of the cash assessment as now enhanced, and while the amount received by the *tumandars* is the same as in recent years, his expressed in terms of the Government cash . greater than it was '

* Punjab Government letter No. 40,

In sanctioning the *inams* for the term of the new settlement the supreme Government remarked* —

> "The Government of India cordially endorse the views of the Lieutenant Governor as to the importance of maintaining the position and influence of these Chiefs * * * * The *inams* are subject to the same conditions of loyalty and service as heretofore * * * * * * * The Government of India entirely concur in the decision * * * * to permit collections in kind to continue in all cases (except that of the Khosa *inam*), in which they had hitherto been authorized It is very important in the

Abolition of *batai jagir* system in Dera Ghazi Khan district

186 A The revision of settlement in the Dera Ghazi Khan district was begun in 1916, and was concluded in 1920 Fresh sanction then became necessary to the continuance of these *inams* which had been sanctioned for the term of settlement

There was during the course of settlement operations a vigorous agitation against the continuance of the *batai jagir* system and it lost none of its force after the conclusion of the settlement After full consideration of the advantages and disadvantages of the system Government gave an undertaking in the Legislative Council in 1925 to abolish it within the next five years In fulfilment of that undertaking Government reported early in 1928† to the Government of India its proposals for the substitution of cash *inams* to the *tumandars* in place of the old *batai inams* The latter Government gave their general assent‡ to the proposal but declined to contribute anything towards the extra expenditure involved by the conversion

The system was consequently abolished§ with effect from *kharif* 1928 The old *batai inams* were translated into cash *inams* for the term of settlement

Strictly according to the terms of 1899 there was no obligation devolving on Government to supplement the old *batai inams* on their translation into cash Nevertheless the outstanding liberality with which the *tumandars* had been treated in the past made it undesirable that the abolition of collections in kind should bring about any substantial loss in their emoluments The Governor in Council accordingly decided as an act of grace to award supplementary cash *inams* to the *tumandars* in addition to the cash value of their *batai inams* for the term of settlement or for life whichever period may be shorter

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*Government of India Foreign Department No 984" F dated 31st October 1899

†Punjab Government letter No 5 7 1 dated 8th January 1928

‡Government of India letter No 117 F 28 dated 10th September 1928

§Punjab Government letter No 5844 R, dated 4th December 1928.

Both the converted and supplementary *inams* are grants for services rendered and to be rendered both in the plains and in the *tuman* areas within the hills and are conditional on loyalty and active assistance to Government as well as on the maintenance of the traditional hospitality expected from the Chiefs Government retains the right of reducing or confiscating the *inams* at any time, if it is of opinion that the conditions are not being satisfactorily fulfilled

'Kasurs' in Dera Ghazi Khan

137 The *kasur* assignments of the Dera Ghazi Khan district are identical in origin with the *chaharams* ' referred to in paragraph 82 The principal "*kasurs* are in the territory held by the Mazari tribe, about half the revenue of which is released in this form

> They are held by the family of the Chief of the Mazari tribe of Biloches and by the other leading families of the Balachani section of the tribe to which section the Chief belongs Those Balachanis hold among them assignments of land revenue in all the villages of the Mazari country though they are not landowners in all of them Most of the assignments are of half the Government share of the produce though some are of a smaller fraction and it is from their being of a fractional nature that they have derived the name *kasur* (the Arabic plural of *kasur*) by which they are locally known They appear to have been granted from time to time by the rulers who established their authority in this neighbourhood—the Nahrs of Sitpur, the Makhdums who succeeded them and the Amirs of Sindh—and were a proof of the strength and turbulence of the tribe and the weakness of the rulers control * '

Consequent on the abolition of the *batai jagir* system the question of *kasurs* which were bound up with collections in kind was reconsidered It was decided† that the A ' class *kasurs* (*i e*, remission of half land revenue) of the Mazari, Karmani, Mistakani and Gulsherani families should be continued on their ancestral proprietary lands, subject as before to the condition of loyalty and good service The *kasurs* are inalienable and liable to resumption under orders of Government The other *kasurs* in the Mazari *tuman* were converted into forty three cash *inams* of Rs 40 each per annum to be paid out of the treasury The grantee is to be selected by the Deputy Commissioner in consultation with the *tumandar*, and the tenure of the *inam* is ordinarily to be five years

Military reward grants.

138 A very common way of rewarding Indian officers for distinguished war services has been to give them grants of Government waste land revenue free for a certain number of years, with a promise of ownership when the lands had been brought under cultivation

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* Punjab Government No 6° dated 7th August 1900

† Punjab Government letter No 3018 R, dated 11th November 1930

Many such grants were made in the Punjab Owing to the diminution in the area available it was decided in 1888 that they should be limited to a fixed number yearly,* and at the same time the terms on which they should be held were laid down as follows —

> †(*a*) The land to be held subject to payment of the revenue assessed upon it, or (if it is not assessed to the payment of revenue) subject to the payment of revenue at the rates at which land in the immediate vicinity is assessed, provided that if the land is waste land requiring clearance, the grantee will be allowed the ordinary concession, which would be allowed to vendees at public auctions of Government land of two harvests free of land revenue
>
> (*b*) Canal rates and cesses to be paid in full by the grantee from the beginning of the lease He shall also pay malikana at the rate in force in the tract concerned, provided that no malikana will be charged in the case of a grant which does not exceed one square or rectangle
>
> (*c*) The grant to be leasehold for the first ten years, and proprietary rights to be given after the end of that term, if the land has been properly brought under cultivation, and the grantee has made good use of his grant
>
> (*d*) All grants are subject to the loyalty and good behaviour of the grantee
>
> (*e*) When a grant of irrigable land is under contemplation reference must be made to the Irrigation Department before *any promises of irrigation are given to the grantee* If the Irrigation Department decide that irrigation is not possible, the grantee should be informed, and an acknowledgment obtained from him that he agrees to take the land on the understanding that irrigation cannot be extended to it

Jagirs may be substituted for grants of waste land.

139 The matter was reconsidered in 1893, and it was settled that, where it was inconvenient to make grants of waste land, the reward might take the form of a *jagir* At the same time the maximum value of a grant of land was fixed at Rs 400 *per annum* clear of all deductions

> "When the Local Government is prepared to provide a grant of land and the grantee accepts this form of reward, it will be open to the Local Government to arrange for the bestowal of the privileges connected with the grant in such a way that the difference between the value of the grant on the terms given and the market value may amount approximately to 25 times the annual value specified in the orders of the Government of India on each case, such value being limited to the maximum of Rs 400

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* [illegible]

† [illegible]

> as noted above Should the Local Government not be prepared to give land or the grantee be unwilling to accept his reward in this form, the grantee will be given an assignment of revenue from any village or estate that may be selected If an assignment of revenue be given, such assignments will be for three lives only, the maximum amount of revenue assigned to the original grantee being Rs 600, to the first heir Rs 300, and to the next heir in succession Rs 150 The method in which the assigned revenues are to be paid, i e whether from the State treasury or by the land owners direct, will be left to Local Governments to decide, but the amount should be fixed in cash and not in terms of the land revenue When the grantee is a landholder the assignment may take the form of a remission of a specified amount of the revenue due from himself "*

The Financial Commissioner at the time pointed out the objections which existed to the creation of new *jagirs* except—

(a) when the *jagirdar* is owner of the land of which the revenue is assigned,

(b) when he stands in a tribal relation to the revenue payers and the recognition of his status is in accordance with their ideas,

(c) in the absence of the above conditions, when he has nothing to do with the collection of the revenue, which is paid to him through the *tahsil* †

The Local Government acquiesced in these views ‡ In practice no difficulty has arisen, for in all *jagirs* of this class hitherto created in the Punjab the assignee receives the revenue through the *tahsil*

The rule of descent in the case of these military *jagirs* is as follows —

"On [illegible]

> male heir in the eldest branch of the deceased's descendants On the death of the selected heir one-quarter of the original grant will descend integrally to one of his heirs similarly chosen by the district officer The selection made by the district officer will in all cases be subject to confirmation by the Commissioner of the division "§

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* Government of India, Military Department resolution No 867 B, dated 27th February 1893 Also see paragraph 68 (6) and (7) of Financial Commissioner's Standing Order No 7

† Financial Commissioner's No. 11 C. dated 25th May 1893.

‡ Punjab Government Nos. 343 S dated 1st July 1893, and 758 dated 24th August 1902

§ Government of India, Military Department, No. 3293 B., dated 24th October 1893.

Substitution of a cash payment in place of *jagir* or special pension

139-A Towards the close of 1930 the Government of India, Army Department, decided* that, with effect from 1st January 1931, cash payments amounting to Rs 600 per year should be granted, in place of *jagirs*, in the form of assignments or remissions of land revenue and of the special pensions granted to Indian Officers resident in Indian States The cash payments, which will, like *jagirs*, be for three lives, reducible by half on each succession, will be known as "*jagir* allowances," and will be paid by the military authorities themselves without any reference to the civil authorities This change in no way affects the form of, or the status and dignity attached to jagirs granted before the passing of these orders

Scheme for giving retired Indian officers the option of taking an assignment of land revenue in lieu of pension

139 B A scheme, approved† and introduced by the Local Government in 1914, whereby retired Indian Officers of the Indian Army, when they belong to the agricultural classes, have the option of taking an assignment of land revenue in lieu of pension, is also in operation

Special *Jagirs*

139 C In 1917 a scheme for the creation of new *jagirs* was sanctioned‡ by the Secretary of State in accordance with which *jagirs* are granted by the Punjab Government for the life of the original holder, half of the sum assigned being continued for the next generation Only a single descendant in the main line of descent of the original jagirdar, living at the time of his death, can be selected as his successor, and the orders of the Governor in Council are required in each case Attached to all such grants is a definite condition of "continued good conduct and steadfast loyalty to His Majesty the King Emperor and active good service to the public or to the Government established by law in British India rendered to the best of the *jagirdar's* ability and power"

Jagirs granted after 25th November 1859 heritable by a single heir

140 As already stated, a marked change of feeling is observable after the mutiny as to the value to the State of a class of men holding a privileged position and fitted thereby to act as leaders of the people In 1859 the Lieutenant Governor, Sir Robert Montgomery, proposed that, as a rule, the heirs of *jagirs* enjoyed by families of importance should be declared subject to selection by Government § Lord Canning replied that he did not see how such a declaration could be made in regard to existing *jagirs* He added, however,—

> "With regard to *jagirs* which may hereafter be granted His Excellency has no objection to impose the general condition that the estate shall be inherited integrally. * * * * * As to the one single heir His Excellency is disposed to think that it will be quite enough for the Government to require that his inheritance shall need confirmation or recognition by Government before it is considered complete, and to make it known that this recognition may, if cause should arise, be withheld"

*Army Instruction (India) No 102, dated 16th September 1930

†Government of India, Army Department, letter No 17869 1 (A G 10) dated 9th February 1914

‡Government of India, Department of Revenue and Agriculture, letter No 887—205 2, dated 30th October 1916

§ Punjab Government No 678, dated 4th October 1859.

The letter containing this order was dated 25th November 1859, and all *jagirs* subsequently granted are, unless the contrary is clearly expressed in the grant, heritable by a single heir, whose succession requires to be confirmed by Government *

Proposal to introduce primogeniture in case of the principal jagirs

141 Before these orders were issued the Lieutenant Governor had proposed to consult the principal Sardars in the Cis Sutlej and Trans Sutlej divisions as to the propriety of abolishing *chundavand* where it existed, and also of making primogeniture the rule of descent for their *jagirs* In advocating primogeniture the Cis-Sutlej Commissioner, Mr Barnes had written —

> 'I should desire in all feasible cases to institute the law of primogeniture, as was recently done in the case of Ramgarh, and thereby to secure a powerful and influential aristocracy, who, with such guarantees, would doubtless be as loyal and as useful to Government as they proved to be during the recent rebellion "

Proposal agreed to by Lord Canning

142 *Chundavand* had been denounced as immoral and as encouraging polygamy Lord Canning wisely brushed that argument aside But as regards primogeniture his reply was encouraging The proposal to consult the leading *Sardars* regarding it was approved, but anything like arbitrary legislation on the subject was deprecated and it was laid down that "no alteration in the rule of inheritance should be made in a family unless with the consent of its head and of the chief members interested †

His reasons

143 The reasons given by Lord Canning for his decision are worth quoting —

> " It is politically desirable that primogeniture should be encouraged The Governor General believes that a more unfortunate prospect cannot be before a people, especially a people amongst whom society is of a feudal form, than that of the gradual dissolution of all their wealthy and influential families into numerous poor and proud descendants His Excellency also believes that the task of governing such a people in contentment becomes more and more difficult as this change progresses "

Instructions issued in 1861

144 The enquiry which followed seemed to show that a number of the larger jagirdars were ready to elect for primogeniture, and in April 1861 the following instructions‡ were given to Cis Indus Commissioners —

> " Those *jagirdars* holding in perpetuity whose revenue exceeds Rs 250 *per annum*, and who wish the succession of their *jagirs* to be regulated in future by the rule of primogeniture must execute a deed to that effect You will explain to them that this deed when confirmed by Government will hereafter be binding on their successors in the *jagirs* for all generations Where such a deed has already

* Government of India No 476 dated 25th November 1859
† Government of India No 1718 dated 12th May 1860
‡ Paragraphs 2 4, 5 6 of circular letter No 246—252, dated 6th April 1861.

been taken it need only be reviewed with reference to the instructions now conveyed

* * * * * *

"4 The deed will regulate the succession only to *jagir* lands, not to *malguzari* lands or other real and personal property.

"5 The *jagirdar* executing the deed should be invited to record separately the nature and amount of the maintenance which he would propose to assign to the younger branches of his family The custom regulating such maintenance in the case of the younger brothers of chiefs in whose families the rule of primogeniture has been long established will serve as a guide for other *jagirdars*

'6 It should be explained that the rights of collaterals are in no respect affected by the introduction of the rule of primogeniture'

Informing the Government of India of the action that had been taken the Lieutenant Governor remarked —

'One important point only remains to be adverted to, namely, the force of the deed executed by the *jagirdars* declaring that primogeniture shall be the rule of succession to their *jagirs* * * * * *
This point however, will be discussed at length when the reports of the several Commissioners and the deeds themselves shall have been transmitted to this office'

Negotiations prove abortive.

145 The number of deeds executed was forty seven Many of these declared that primogeniture should thereafter be the rule of succession and fixed a rate of maintenance for younger sons, others provided for division among son but allotted a larger share to the eldest or fittest son By some mischance these deeds were never confirmed by Government but several have since been accepted, and where the circumstances of each case were consistent with the provisions of section 8 (1) (*b*) of the Descent of *Jagirs* Act mentioned in paragraph 157, a rule of primogeniture has been notified

Reasons why evil results have not been worse.

146 The failure to carry the negotiations with the leading *jagirdars* to a successful conclusion is much to be regretted The matter was not dealt with again comprehensively for a whole generation during which sub-division went on unchecked The resultant evil would be even more apparent than they are, but for the fact that many of the large *jagirdars*, at least in the Cis Sutlej territory, have found it difficult to perpetuate their families at all, and have considered themselves fortunate when they have had a single son to inherit their family honours As regards the important political *jagirs* in the trans Indus districts little difficulty has arisen, for most of them were granted or confirmed after 1859, and in the case of some *jagirs* of earlier date the succession of a single heir is either provided for by the original order of release or has been established by subsequent decision or family agreement

147. In Hazara the *jagirs* granted at annexation were made subject to certain limitations of the succession proposed by Major James Abbott Further, *jagirs* were granted for service in 1857 without any similar reservation Among the Hazara settlement rules to which legal force was given by Regulation XIII of 1872 were two dealing with assignments of land revenue—

Remedy applied in case of Hazara *jagirs*

"18 The Settlement Officer shall ascertain for each class of revenue assignments granted for more than one life, or for the period of settlement, or for each of such cases where necessary, what rule is best calculated to secure to Government the attainment of the object for which the grant was given The result of his enquiries shall be submitted for the sanction of Government

"19 All cases in which orders of succession contrary to the orders to be laid down under Rule 18 have been passed shall be reported to the Commissioner, who is hereby empowered to revise the previous orders in the spirit of rule 18, or in such modified way as the peculiar circumstances of such cases may call for'

Under the first of these rules the Lieutenant Governor passed the following general order —

"All *jagirs* and political pensions released for more than one life or for term of settlement shall devolve integrally ordinarily to the eldest son * * *

"The succession shall not necessarily be maintained in the direct course should the immediate heir be devoid of merit, or deficient in the necessary qualifications of character, influence, control over his tribe and family, or good disposition towards the British Government "*

In the case of certain *jagirs* Government reserved the option of dealing with the succession in the above manner, or of dividing the *jagir* among the male issue of a deceased grantee † In Hazara, therefore, the matter of succession to *jagirs* has been put on a thoroughly satisfactory footing

148 It was provided by section 8 of the Punjab Laws Act, IV of 1872, that—

Section 8 of Punjab Laws Act, IV of 1872

' in all cases in which Government has declared any rule of descent to prevail in any family or families of assignees of land revenue, such rule of descent shall be held to prevail and to have prevailed amongst them from the time when the declaration was made "

In 18?0 the Government of India refused to make use of this section in connection with a proposal to declare the rule of

* Punjab Government No 1706 dated 22nd December 1873

† For list of these see page 282 of Captain Wace's Settlement Report of Hazara

succession in the Raipur *jagir* family in the Ambala district to be primogeniture, on the ground that it had no retrospective effect *

Attitude of Government of India on question of right to regulate successions

149 The Government of India have never asserted a right to regulate successions after the conditions of a grant have been laid down in the order of release But on a few occasions they have decided that the rule of succession in a particular *jagir* restricts descent to a single heir

Primogeniture introduced in case of Ramgarh *jagir*

150 In a letter No 1490, dated 1st April 1859, Lord Canning sanctioned primogeniture as regulating in future the succession of the *jagir* enjoyed by one branch of the Ramgarh family in Ambala ' as this proposal has emanated from the younger sons themselves " The family is a Rajput one connected with the Raja of Bilaspur

Case of the Chachi *jagir*

151 In 1862 the Government of India declined to sanction a deed respecting the devolution of his *jagir* executed by Sir Nihal Singh, Chachi, on the ground that " as the Sardar has more than one son, Government has no power to fetter or unfetter the Sardar as to his old estates, his power over which must be decided should any dispute arise by the ordinary law applicable to such estates in the Punjab '

In 1874, however, Sir Henry Davies, then Lieutenant Governor of the Punjab, declared that, as Sir Nihal Singh, who had died in 1873, had never revoked the wish expressed in 1862, the law of primogeniture was applicable to the whole *jagir*, which therefore descended to his eldest son, Amrik Singh These orders were plainly inconsistent with the view taken by the Government of India in 1862 But in 1902, in passing orders upon the succession, which had again opened out on the death of Amrik Singh leaving no children, the Government of India took the view that " section 8 of the Punjab Descent of *Jagirs* Act, 1900, relates to declarations in fact issued irrespective of their authority, and that the deliberate employment of the term " Government,' which includes a " Local Government, has placed the two letters " (*i e*, Government of India letter No 1156, dated 11th December 1862, and Punjab Government letter No 250, dated 29th January 1874), ' for the purposes of that particular enactment, on the same footing. Having, therefore, two separate but inconsistent declarations, both falling under terms of the section, the Government of India consider that the fair and natural construction is that the later declaration must, from the date of its issue, be held to have superseded the earlier "†

The whole of the *jagir* consequently descended to Tek Singh, eldest son of Gopal Singh, who was the second son of Sir Nihal Singh,

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* Government of India No 4156 [illegible] 1890 [illegible]

son should inherit the *jagir*

† Government of India No. 1232—156-4 dated 5th August 1902

and the rule of primogeniture may be held to have been established in the family

152 The *jagir* of Shahzada Jamhur, Saddozai, in the Kohat district, was originally released in favour of the grantee "and his male issue in perpetuity" In 1877 the Government of India agreed to a modification of the terms providing for its devolution on "the heir, being a descendant of the original grantee, whom Government might select"*

Succession of a single heir in case of (a) *Jagir* of Shahzada Jamhur

153 In the case of the Makhad *jagir* in Rawalpindi where the grant provided for descent to "legitimate male issue," but the Financial Commissioner held that a *quasi* custom of primogeniture had been proved to exist, the Government of India in 1881 sanctioned the succession of the eldest of four sons subject to the condition of fitness † This ruling also applied to the Shakardarra *jagir* in Kohat held by the same family

(b) The Makhad *jagir*

154 In 1882 the Government of India allowed one of Raja Sir Sahibdial's *jagirs* released in 1854 in favour of himself and "his legitimate male issue for two generations" to descend to his grandson, his sons being passed over for reasons stated in the correspondence ‡

(c) *Jagir* of Raja Sir Sahibdial

155 In 1898 the Punjab Government urged on the Government of India the necessity of taking measures to put a stop to the sub-division of *jagirs*, and the gradual deterioration in consequence of many of the leading families in the province § The history of the question in the Punjab was reviewed, and the various orders of the Government of India referred to in the preceding paragraphs were cited The conclusion drawn was that in the Punjab assignments of land revenue had always been regarded from a standpoint different from that adopted in some other parts of India, and that the principle had been asserted that assignees have, in virtue of the grant of a share of the revenue of the State, public duties as well as private rights It was a natural deduction from this that Government had an inherent right to regulate the course of succession "from time to time as occasion requires," and so to maintain the capacity of the *jagirdar* to do public service Sir Mackworth Young quoted with approval a dictum of the officiating Financial Commissioner, Mr Ogilvie, that "all assignments are from the essential nature of their tenure held subject to the pleasure of Government unless the contrary be distinctly stated in the deed of grant * * It is a great mistake to regard and treat these deeds of grant like the title deeds of an estate * * * * the general provision that the grant shall descend to direct heirs male does not * * * * debar Government from the exercise of its inherent right to regulate the succession between recognized heirs" The Lieutenant Governor therefore proposed to introduce authoritatively by executive order

Proposal of Punjab Government to introduce primogeniture authoritatively

* Government of India No 383 F, dated 27th July 1877

† Government of India No 45-J R dated 27th May 1881

‡ Government of India No 256 dated 22nd November 1882

§ Punjab Government No 201-S, dated 16th June 1898

the rule of descent to a single heir in the case of all *jagirs* of a yearly value of Rs 250 and upwards.

Proposal modified by Government of India.

156 This proposal was rejected by the Government of India which held that the end in view could only be reached by legislation, and that the consent of the *jagirdars* in possession was essential to the introduction of primogeniture In the letter conveying this decision it was remarked that—

"The Governor General in Council is in entire accord with His Honour the Lieutenant Governor as to the political expediency of preventing the larger *jagirs* from being parcelled out through a recurring process of sub divi sion But having given the most careful attention to the subject, he is satisfied that the decision come to in 1860 by Lord Canning that, though *jagirdars* might very properly be invited to accept the rule of primogeniture, it should not be applied without the consent of the head to any family in which it has not hitherto prevailed, is correct, and should be substantially main tained That the Government when granting or confirming an assignment of land revenue possesses an absolute power of regulating the succession, at the time of such grant or confirmation, is undoubted But when once the conditions of a grant have been prescribed and the grant has actually been made, this absolute power is lost This is the well recognized rule of English law governing grants from the Crown, and is founded on principles of equity and common justice There no doubt exists a distinction in kind between an estate in land and an assignment of land revenue But taking an assignment of land revenue as analogous to a pension, the State by the principles of English law has no inherent right to regulate or vary at its pleasure, after the assignment or the pension has been granted, the order of succession in either the one case or the other Nor is the Governor General in Council satisfied that if such powers were assumed they would meet with the hearty approval of the *jagirdars*

"An examination of the various orders passed between 1850 and 1860 by the Governor General shows that great care was taken to protect decisions already given Thus, in 1851, when a certain rule as to collateral descent was laid down, decisions already given in particular cases to a contrary effect were allowed to stand Again, at a later date, in the case of the Ramgarh *jagir*, substitution of succession according to primogeniture for division among the heirs was only sanctioned because the younger sons of the *jagirdar* themselves applied for it.

"In paragraph 13 of your letter other instances are cited in which the Government of India have interfered, since Lord Canning's declaration of policy in 1860, to regulate successions Examination of these cases shows that there was no real deviation from the policy of 1860 In the first case cited the terms of the grant were revised on the occasion of the amount of the grant being increased, and apparently with the assent of the grantee In the second case the custom of primogeniture was proved to exist in the *jagirdar's* family In the third case the terms of the grant were modified with the consent of the original grantee"

Punjab Act IV of 1900, (Descent of Jagirs Act)

157 In accordance with the decision of the Supreme Government an Act, No IV of 1900, amending section 8 of the Punjab Laws Act, IV of 1872, was passed by the local Legislative Council and received the assent of the Governor General The main provision of the Act is as follows —

"8. (1) Where the Government has heretofore declared or at any time hereafter declares that any rule of descent in respect of succession, to any assignment of land revenue shall prevail in the family of assignees, such rule of descent shall be deemed to prevail, and to have prevailed from the time when the declaration was made, anything in any law or contract to the contrary notwithstanding

Provided that no such declaration shall hereafter be made unless and until—

(*a*) the Government is satisfied that the rule of descent to be so declared actually prevails in the family, and has been, continuously and without breach, observed in all successions (if any) to the assignment since it was made, or

(*b*) the assignee or his successor in interest for the time being has by written instrument duly executed by him, either before or after the passing of this Act, signified, on behalf of himself and his family, acceptance of the rule of descent to be so declared, and either no succession has taken place since such acceptance, or else in all successions which have taken place since such acceptance, the assignment has in fact not devolved otherwise than it would have devolved had the said rule of descent been in force.

(2) Any declaration made under sub section (1) may be amended, varied, or rescinded by the Government, but always subject to the proviso thereto

Where the rule of descent declared to prevail involves the devolution of the assignment to a single person, it cannot be attached

by order of Court [section 8 (3)] In declaring the rule of descent Government may attach to it the following conditions :—

(a) that each successor to the assignment shall be approved by Government, and

(b) that he shall, if required by Government, make such provision as Government deems suitable for the maintenance of the widows and other members of the families of previous assignees [section 8 A (a) and (b)]

The Government is bound in approving of a successor to accept the nearest heir according to the declared rule who is not unfit (provisos to section 8 A)

Interpretation of "succession to heirs male"

158 An important ruling is contained in Punjab Government letter No 108, dated 13th December 1893, determining the interpretation of the conventional expression "succession to heirs male" when used in the original order conveying sanction to a grant

Sir Dennis Fitzpatrick held that "the rule applicable to a grant of this sort in the Punjab is that it descends to a single heir, unless a different rule of succession is specially prescribed

Several subsequent decisions have been based on this view and the grants notified under section 8 (1) (a) of the Descent of *Jagirs* Act accordingly

For the purpose of this ruling the term "male issue" may be taken to be the equivalent of "heirs male"

This ruling applies only to cases which under the general orders of 1859 (see paragraph 140), are inheritable by a single heir.

Succession of single heirs prescribed in case of small grants for service to be performed

159 To prevent the splitting up of small grants made in consideration of service to be rendered to village communities, it was ruled in 1865 that "small grants given in lieu of service to be per- . . . .

reasons exist for superseding him, it will be within the discretion of the local authorities so to arrange, provided this be in accordance with the wishes of those interested in the service to be rendered "*

The occupation of existing holders was not to be disturbed, but advantage was to be taken of future successions to get rid of the joint enjoyment †

Grant of right of adoption to ruling chiefs

160 In some parts of the Punjab great families are perhaps in more danger of extinction by entire failure of heirs than of degradation by partition of their estates among a numerous progeny When the current of opinion changed after the mutiny, the privilege of adopting an heir in the event of their having no sons was conferred on many ruling Chiefs in the Punjab and elsewhere In the case of Sikh Chiefs it is hardly possible to represent this as the restoration of a right which ought never to have been denied Sir Henry

* Punjab Government No 414 dated 30th May 1868

† Financial Commissioner's Book circular No. 13 of 1865

Lawrence* and Sir Lepel Griffin† both stated emphatically that no such right had ever existed, and Lord Canning at first refused the request of the Phulkian Rajas to be permitted to adopt on the ground that the concession would be an innovation on the custom which had always prevailed among the Chiefs of the Cis Sutlej territory ‡

Grants of adoption *sanads* to selected *jagirdars*

161 In 1862 adoption *sanads* were conferred on two important *jagirdars*, Raja Tej Singh and Sardar Shamsher Singh, Sindhanwalia, who before the annexation of the Punjab had been members of the Lahore Council of Regency No other *jagirdar* enjoyed the right down to the year 1888, when it was given to Sardar Lal Singh, Kalian wala In connection with Lal Singh s case Sir Charles Aitchison proposed to the Government of India that the right of adoption should be bestowed from time to time on carefully selected *jagirdar* families He remarked —

> ' It would be necessary to make a very careful selection of the *jagirdars* deemed worthy of the right of adoption Each case would be weighed on its own merits, and the concession would be allowed as an honour and a re ward In the work of selection regard would be had to the influence, position, history, and services of the family, to its loyalty and activity in the cause of good government in times of peace, and the reputation of the *jagirdars* for kindness towards dependents and to the landholders and others living on the *jagir* In this way, the Government would always have in its hands a powerful incentive to good and loyal services, and those not granted the concession in the first instance might hope in time to win it by proved deserts It might further be provided that the privilege should be liable to forfeiture for disloyalty or other misconduct which might be defined
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> * * * * * * * *
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> "It may be asked what would be the advantages of the concession both public and private but of such a nature that the Government, acting in the public interests, could fairly take them into view? It is well known that the grant of adoption *sanads* to Chiefs has not operated to increase the number of adoptions, but to allay disquietude of mind Many cases that have come before the Lieutenant Governor have convinced him that the practice of declining to consider grants till the death of the grantees gives the grantees much unnecessary anxiety in their declining years It is natural and laudable on the part of heads of families to desire before they die to know that their houses will survive them and their relations will be provided

* Paragraphs 34 and 45 of postscript to Major H Lawrence's report on his Summary Settlement of Kaithal.

† Rajas of the Punjab pages 225 and 226

‡ Rajas of the Punjab page 228

for The Lieutenant Governor knows that much anxiety prevails in this matter which it is within our power to remove, and one measure which would tend to set these painful uncertainties at rest would be the grant of adoption *sanads* to selected *jagirdars* holding in perpetuity.

"It may be admitted, however, that the purely public advantages would be much more important The measure in contemplation would give great political strength to the Government In the Punjab in particular the boon would be a proper recognition of the loyal and faithful services, in peace and war, of the most prominent men in the British territories of this part of India—services rendered in most cases with unswerving zeal and praiseworthy alacrity for more than a generation The men who have thus served us are the men who stood by us in the storm of the Mutiny; and we know by the heartfelt offers made during the Afghan War and later at the time of the Panjdeh incident, that the spirit which animated them and their fathers thirty years ago still lives We desire its perpetuation, we desire that the families who have aided us in the difficult task of continuous administration and have proved themselves our friends in time of need shall not die out of the land We need leaders of the people, and times may come again in which the diminution of that class would be felt as a serious public calamity The measure proposed would tend directly to the attainment of these objects, and would invigorate and cheer the performance of those duties of which it was the reward, and for the continued performance of which it would be a security'*

The Government of India accepted the views put forward by the Lieutenant Governor, but considered that the objects aimed at would "be best attained by selecting from time to time in individual cases the *jagirdars* to whom it is proposed to give the privilege of adoption"

Grants of adoption *sanads*

162 This opinion, however, has since been reconsidered. It was represented that the grant of merely personal *sanads* of adoption went but a little way towards furthering the policy of the Punjab Government in regard to the maintenance of their *jagirdars* as a source of real political strength It was urged that the need for men of good family who have influence in the country and are ready to use it on our side certainly had not diminished in the years which had elapsed since Sir Charles Aitchison put forward his views in the official pronouncement quoted above · that on this ground alone it was to our interest to preserve the old families whose influence was naturally greater than that of new grantees could be: and that, this being

* Punjab Government No. 221½, dated 30th March 1887.

admitted, it was, on the assumption that suitable adoptions could be made, a matter of no consequence to us whether the successor was an adopted son or a son of the body

'We have in fact an aristocracy of high traditions, and sentiment apart, we ought to uphold it in our own interests .. . We wish to preserve the families of our great *jagirdars* in order that they may be useful to us that they may help us in ordinary times in the suppression of crime and support us with their own strength in the country in times of trouble What they want and may well have if I rightly apprehend the policy—is an assurance that Government does not desire the lapse of their *jagirs* The present concession rather suggests that Government is not prepared to forego the fiscal gain of occasional lapses *

These arguments were supported by the Government of India and accepted by His Majesty s Secretary of State, the rules† framed to carry out the policy thus approved are as follows —

(1) The privilege contained in the grant of an adoption *sanad* shall be an heritable one

(2) Such a *sanad* shall only be granted to *jagirdars* who are found specially worthy of the honour, and they shall be selected with reference to their possession of the qualifications already laid down as necessary by Sir Charles Aitchison in the passage already quoted in paragraph 160 above

(3) Its grant shall be subject to the following conditions (*a*) The acceptance by the *jagirdar* of the maintenance conditions specified in section 8 A of the Punjab Descent of *Jagirs* Act, No IV of 1900, and (*b*) the sanction of the Government of India

(4) An improper or unsuitable adoption may be vetoed by the Local Government

(5) The succession shall be regulated by a rule of integral descent to a single heir, usually the rule of primogeniture

163 It will thus be seen that the grant of an adoption *sanad* while conferring a valuable privilege upon the grantee is also useful as furthering the policy enunciated in the Descent of *Jagirs* Act of limiting succession to a single heir and of preventing the minute subdivision of *jagirs* with its consequent loss of prestige and influence to the *jagirdar*

164 Unless assignments of land revenue are incapable of transfer by the grantees and of attachment by order of Court the

* Extract from a note by the Hon ble Mr C. L. Tupper C.S.I., Financial Commissioner, dated 9th December 1900 forwarded to the Government of India, with Punjab Government letter No. 17 dated 26th February 1901

† Financial Commissioner s circular No. 4951, dated 22nd September 1902

uses may easily be destroyed In 1852 the Government of India ordered the insertion in *sanads* relating to perpetual grants of a clause prohibiting alienation * It will be remembered that one of the subsidiary succession rules sanctioned in 1853 in the case of the Cis Sutlej *jagirs* declared that (past) alienations whether to relations or strangers should *not be officially recognized or recorded* † In 1857 Lord Canning sanctioned a proposal that each successor to a Cis Sutlej perpetual *jagir* should receive it unencumbered by any liability for the debts of his predecessor if he refrained from appropriating any of his real and personal estate apart from the *jagir* ‡ This order was declared applicable to all perpetual *jagirs* in the Punjab by Financial Commissioner s circular No 8 dated 3rd February 1857. The Court of Directors, to whom the order was communicated, expressed surprise that it should have been thought necessary to issue it, and remarked—

> ' We should have supposed that there could be no necessity for *notifying this as a rule, since it follows from the very* nature of a *jagir*, which cannot be alienated and can only be attached for the life of the holder ' §

Mr Cust s Revenue Manual declares all *jagirs* and *m'afis* to be inalienable

165 Probably the Directors only referred to grants for more than one life But in his consolidated circular ‖ on " *Jagirdars* and *M'afidars* " issued in 1860, and again in his Revenue Manual published in 1866, the Financial Commissioner, Mr Cust, wrote—

> " It is scarcely necessary to remark that the *jagirdar* or *m'afidar* has no power of sale, mortgage, gift, or sub lease, of his revenue assignment, except under special circumstances which must be proved Contracts of this kind will not be recognized by the Revenue Courts, and the parties in possession on those pleas will be considered only the private agents of the holders with no legal rights "¶

Assignments may be treated as inalienable except in the Delhi territory

166 It is to be regretted that no distinct legal provision exists declaring assignments even for a term inalienable Section 12 of Act XXIII of 1871 (an Act to consolidate and amend the law relating to pensions and grants by Government of money or land revenue) refers only to pensions, and in the preamble to the Act a distinction is drawn between pensions, and grants of land revenue There are, however, judicial decisions to the effect that a pension may take the form of a land revenue assignment Be that as it may, it is clear that under sections 4 to 6 of the Act no Civil Court can take

* Government of India No 2990 dated 27th August 1852 The letter refers to [illegible]

with respect to assignments a revenue officer is as a rule fully justified in treating private transfers of the right to receive a share of the revenue due to the State as a breach of the conditions of the grant In the case of *mafis* for the support of institutions it is obvious that, if the manager mortgages the income on account of his private debts, the conditions are broken Unless arrangements can be made for the speedy removal of the encumbrance the remedy lies in resumption or in suspension of payment till the persons interested in the institution can arrange for the appointment of a new manager, who would feel himself under no obligation to continue the diversion of the endowment from its proper uses Probably this would hold good as regards grants for the maintenance of institutions even in the Delhi territory, though assignments in that part of the province are ordinarily transferable (paragraph 130)

Early authorities declare assignments to be capable of attachment.

167 The law regarding the attachment of assignments by decree of Court is in a somewhat doubtful state In the despatch quoted in paragraph 164 the Court of Directors wrote "that *jagirs* can only be attached for the life of the holder Mr Cust remarked—

> '*Jagir* and *mafi* holdings are liable to attachment under decree of the Civil and Revenue Courts The revenue will be collected by the *tahsildar* and paid to the parties holding the decrees With the death of the life holder all claim of the creditor expires Grants to institutions are not liable for the personal debts of the manager *

This practically assumes that assignments are private property in which the existing holders have life interests It ignores the view that the possession of them involves public duties

Doubtful state of the law

168 Section 11 of Act XXIII of 1871 provides that no pension granted or continued by Government on political considerations, or on account of past services or as a compassionate allowance——— shall be liable to———attachment———in satisfaction of a decree or order of any———Court Political pensions are exempted from attachment by section 266 (*g*) of the Civil Procedure Code In one case (C R 137 P R 1890) the Chief Court of the Punjab

is be and no doubt often
no reason why a pension
he form of an assignment

of land revenue In a later case (C R No 47 P R of 1893) the former Punjab rulings on the subject were considered, and the law summed up as follows —

> These cases are sufficient to show that while some *jagir* income may be liable to attachment other *jagir* income may not

*Cust s Revenue Manual, page 15

Duties of Collector in connection with attachment of assignments

169 Assigned revenue is an "interest in land," and an order for its attachment made by any Civil or Criminal Court must be addressed to the Collector,* and must direct "the person by whom the revenue is payable to pay it to the Collector and the Collector to hold it subject to the further orders of the Court" † In execution proceedings the Collector is the agent of the Court, and must obey its order without demur But, after the attachment has been made, he would be justified in pointing out to the Court any reasons why in his opinion it should be withdrawn It is for the Court to decide whether the reasons are valid If the matter were properly represented, it seems probable that a Civil Court would hold that revenue granted for the support of an institution should not be attached in execution of a decree on account of the private debts of the manager

Provisions of section 8 (3) of Punjab Act IV of 1900

170 In 1898 the Punjab Government proposed the amendment of section 11 of Act XXIII of 1871 so as to protect all assignments of land revenue from attachment ‡ The Government of India held that it would be enough to exempt those *jagirs* only in respect of which primogeniture has been or shall be declared to be the rule of descent § As noticed in paragraph 157 this was provided for by section 8 (3) of Punjab Act IV of 1900 As regards other *jagirs* the Government of India remarked that they saw no particular reason for exemption as their liability to be sub divided among numerous heirs divested them of any political importance

Questions regarding succession.

171 Questions of succession do not as a rule cause much trouble The terms of the grant usually indicate clearly who the successor or successors must be

Registration of heirs to *jagirs*.

172 Every shareholder in a Cis Sutlej *jagir* is required to report the birth of a son within a week of its occurrence in order that the necessary entry may be made in the genealogical tree No investigation, public or private should be instituted into the truth of the relationship of the child to his reputed father, when there are kinsmen in the line of succession to the *jagir*, unless they have moved in the matter in their own interest If there are no such kinsmen it may become necessary to make some private enquiry, but only if rumours of fraud have reached the ears of the Collector If private enquiry seems needful, the Collector must obtain the sanction of the Commissioner before making it, and report the result for orders Alleged posthumous births will usually require verification, especially if the Collector has received no notice that the widow declares herself to be pregnant Such declarations are often not to be trusted, and enquiry to be effectual must be made before the birth takes place or is, according to the widow's statement, due In such cases it may be advisable with the Commissioner's sanction to arrange, if possible, for the service of a competent lady doctor for the personal examination of the widow ||

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* [illegible] XXIII of 1887 [illegible]

[illegible] 1899

Succession to small grants for service

173 The rule limiting the succession to a single heir in the case of small grants for service to be performed has already been noticed (paragraph 159)

Succession to small grants assigned to several persons for their lives

174 When the revenue of a plot has been assigned to two or more individuals collectively without specifying that the share of each shall lapse on his death, the survivors of the original assignees are entitled to the whole assignment, and on the death of the last of them the whole will lapse This rule only refers to petty grants *

Succession to grants for religious institutions

175 The cases of succession which cause most difficulty are those relating to endowments for the support of religious institutions Unfortunately the death of the head of a monastery or of the guardian of a tomb or shrine is often followed by a dispute among his disciples as to who shall occupy the vacant seat It is no part of a Collector s duty to settle such matters It is the policy of Government, as laid down in Act XX of 1863 to abstain from interference in the management of religious institutions and five years before that Act was passed the same principle was clearly stated in Chief Commissioner s circular No 23, dated 25th August 1858 If the succession is contested, the Collector should either pay the revenue to the claimant who is actually in possession, or suspend payment altogether till the dispute is settled He should adopt the latter course when litigation is protracted, and it is clear that funds intended for religious or charitable purposes are being diverted into the pockets of lawyers

Resumption for breach of conditions.

176 An assignment may be resumed when the conditions attached to it are broken These conditions may be either expressed or implied

Breach in case of assignments or support of religious institutions

17[illegible] [illegible]
made f[illegible]
But if [illegible]
endowment is clearly being misapplied interference is necessary It is equally so if the guardian is notoriously a man of bad character, and complaints reach the Collector s ears that a house of prayer has become a den of thieves or gamblers or that respectable women can no longer visit it for purposes of worship A time can be set within which the persons interested in the institution must arrange for the repair of the building or the remedy of the abuses which have infected its management, failing which resumption will be proposed

The condition of loyalty and good conduct.

178 Many grants are by their terms expressly conditional on loyalty and good conduct The form of a *sanad* sanctioned for perpetual assignments in 1870 declares that the grant is held on the above conditions during the pleasure of Government This as an expression of the policy of Government announced to the grantees when they received their *sanads* is important But, in deciding what the terms of old grants are, it is necessary to look to the original order of release rather than to the wording of a general form of *sanad* prescribed many years later

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* Punjab Government notification No 1386, dated 27th October 1873

Every assignment really liable to forfeiture for flagrant misconduct

179 But, whether the original grant stipulates for good conduct on the part of the grantee or not Government is justified in holding that there is a point in the case of every assignment at which the misbehaviour of the assignee will justify an order of forfeiture What that point is must depend largely on the history of the grant Considering the origin, for example of many of the *jagirs* in the Cis Sutlej and Delhi territories it would be wrong to mete out the same measure to them as to assignments which have sprung simply from the bounty of the British Government

Assignment forfeited if grantee is guilty of treason or of a capital offence

180 The title of any person to hold or to inherit a *jagir* or a share in a *jagir* is forfeited when he is convicted of a crime involving a death sentence If he is in possession the *jagir* will lapse entirely If his interest in the *jagir* is contingent it will cease as regards himself, but survive as regards his children or other heirs The Government of India ruled in 1856 that the share which the criminal would in ordinary course have inherited should be confiscated entirely when the *jagirdar* whose heir he was died * but the Court of Directors refused to accept a ruling which involved the doctrine of corruption of blood

They remarked—

> "Forfeiture of the whole property of a convicted felon is one of the punishments prescribed by law, and for this there may be sufficient reason notwithstanding the hardship which results to his innocent offspring But in the present case you have pronounced a prospective confiscation of landed rights which have never vested in the offenders but which would have legally descended to them on the death of their father who still survives thus adopting the principle of corruption of blood known to the ancient law of this country but long stigmatized by the best authorities and condemned by the opinion of the present age We cannot sanction this principle, and we direct that the children of Nihal succeed to their father s share on the death of their grandfather in the same manner as if their father had died in the course of nature †

A grant is also forfeited by the commission of any act of treason or disloyalty ‡

Ruling of Punjab Government in 1883

181 In 1883 the cases of two sharers in Trans Sutlej conquest *jagirs* who had been convicted respectively of attempted burglary and of receiving stolen property were brought to the notice of Government It was then ruled that when the deed of grant contains nothing which reserves to Government the power of resumption, (perpetual) grants can only become liable to forfeiture for treason, or when the holder commits an offence for which

* Government of India No 4170 dated 8th August 1856

† Despatch No 44 dated 18th August 1858

‡ Financial Commissioner s Book circular No LIII of 1860

under the ordinary law the Court could pass a sentence of forfeiture of all the property of the offender "*

182 It is very doubtful whether this doctrine, which treats a right to a share of revenue due to the State as standing on the same footing as private property, would now be accepted. It is inconsistent with the view of the nature of assignments in the Punjab which was put before the Government of India in 1898 † In a recent case belonging to the Peshawar district a perpetuity *jagir* was on the death of the holder converted with the sanction of the Government of India into a perpetual cash pension of much smaller amount because of the failure of the deceased *jagirdar* to show active loyalty, or to treat the local representatives of Government with proper respect In recommending this action Sir Mackworth Young remarked that he supported it " not so much because the grant was originally one of Rs 1,000 and was increased subject to Government service as well as good conduct, though this might perhaps be argued, but on the broad ground that every assignment of land revenue is held on the under standing that the assignee maintains a loyal attitude towards the Government, and failing this is liable to have his grant confiscated ' ‡ A few years ago a *jagirdar* belonging to one of the leading families in the Punjab was warned that *jagirs* are granted for public objects and that, with respect to the condition attached to his grant, circum stances might arise in which Government might be compelled reluc tantly to resume it '§ In that case the *sanad* stated that the grant was conditional on good conduct and loyal service

Later attitude of Punjab Government

183 In some cases the benefit of a lapse accrues to a *jagirdar* and not to Government The circumstances under which this takes place are described in paragraphs 23—25 of Financial Commissioners' Standing Order No 7

Lapses in favour of *jagirdars*

184 When an assignment lapses the person entered in the record of rights as landowner usually becomes responsible for the payment of the land revenue to Government In technical phrase " the settlement is made with him ' But it may be found that the connection of the late *m'afidar* with the land really amounted to a proprietary or sub proprietary tenure, and in that case he or his heir is entitled to claim the settlement This subject, which in practice is a somewhat difficult one, is dealt with in paragraphs 182—185 of the Settlement manual

Settlement made in some cases with ex-*m afidars* or their heirs.

185. When a general re assessment of a district takes place it is the business of the Settlement Officer to examine and attest all existing assignments of land revenue Some remarks on the subject will be found in paragraphs 568—575 of the Settlement manual

Treatment of assignments at settlement.

* Punjab Government No 194, dated 23rd April 1883

† See paragraph 155

‡ Punjab Government No. 506 dated 30th July 1901

§ Punjab Government No. 949-S., dated 25th August 1898.

Duties of Collector in connection with assignments

186 The main duties of the Collector of a district in connection with revenue-free grants are—

(1) as regards term expired grants to see that lapses are enforced without delay, or a recommendation made for a reconsideration of the original order, should resumption appear undesirable,

(2) as regards other assignments—

(a) on the death of the existing holder to pass orders promptly about the succession,

(b) to satisfy himself that the conditions of the grant are substantially fulfilled by the assignee

The discretion of the Collector to resume of his own authority assignments of which the term has expired is not unfettered In a few cases he has been forbidden to do so, and as regards others lines of policy have been laid down to which he must conform These duties are discharged by the Collector even when the district is under settlement, but all cases should be reported to him for orders by the Settlement Officer, to whom also the orders should be communicated in order that proper effect may be given to them in the records and that the Settlement Officer may be able to carry out the duty imposed on him by paragraphs 568 *et seq* of the Settlement Manual

Grants for service in 1848 and during the Mutiny

187 Grants on account of services rendered in 1848 or during the mutiny originally made for a term may not be resumed without reference to the Financial Commissioner * There are strong reasons for showing liberality in such cases which are well explained in the following remarks by Sir James Lyall† —

> 4 In certain cases which came before him as Financial Commissioner Sir James Lyall recorded an opinion that it was good policy to maintain in perpetuity grants for services rendered at the mutiny, on the ground that such grants remain as evidence of the result of loyalty and have a considerable political effect To these views Sir James Lyall still adheres, and is strongly of opinion that in the case of the small *jagir* or *mafi* grants, which were made to the best of the Sikh and Punjabi Muhammadan Native Officers in 1859 and 1860 in recognition of their having obeyed our call and joined our standard at a critical time and distinguished themselves as soldiers it would generally be good policy and well worth the money to continue the grant or part of it to a selected heir, provided that the family has continued to show itself loyal and well disposed and ready to do service The money value of these grants is small, but the value put on them is great, as in this country of peasant proprietors they give the family which holds them a high social status in the eyes of the rural

* Punjab Government Nos. 104 dated 30th August 1889 and 141, dated 6th December 1889

† Punjab Government No. 192-S. dated 6th July 1889

population, and mark it out for recognition by the officers of Government. It is these land holding families, better off though they be than the mass of the peasantry, but still only what may be termed yeomen proprietors, which furnish the men who are the flower of the present cavalry and infantry of the Indian Army, and who make the best Native Officers. They have some ancestral military traditions and feelings of gentility and also a certain small amount of capital. They serve more for the love of the thing than for profit and eventually retire and live on their lands. It is in Sir James Lyall's opinion a great object to keep alive the spirit which induces men of this class to serve in our Army, and which might die out any day. The continuance of small grants in their villages to the heirs of the men who joined our standard in 1857 and then much distinguished themselves will be one way of keeping alive this spirit and of encouraging future generations to follow the example if similar critical times ever occur again.

Bedi and Sodhi grants

188. One of the rules prescribed by Lord Hardinge and Lord Dalhousie provided for the re consideration on the death of the holders of assignments conferred for service of any kind to be rendered to Sikh rulers, including grants to *Bedis* and *Sodhis*, which were originally confirmed only for the lives of the incumbents.* This instruction was reproduced in the rules under the first Punjab Land Revenue Act, XXXIII of 1871. Definite directions have since been given for the resumption of *Bedi* and *Sodhi* revenue free grants on the deaths of existing holders and the grant of cash pensions to their male descendants, widows and daughters. These directions make the following rules, which were originally drawn up for the case of deceased *Bedi* and *Sodhi* pensioners, applicable also to the cases of deceased holders of revenue free grants who are members of those two clans. In applying the rules in the first instance on the decease of such free-grant holders the words "pensioner" and "pension" are to be treated [illegible]
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in their strictly literal sense. Thus the heirs of a deceased revenue-free grant holder are pensioners in the strict sense of the word and their heirs after them. The pensions go on diminishing generation by generation till they lapse by commutation or by death or by marriage.

The directions also lay down that Collectors can dispose of these cases in accordance with the rules without reference to higher authorities.†

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* See paragraphs 86 and 90 of this manual.

† Punjab Government Nos. 197 dated 5th December 1884 and 87 dated 4th July 1889, and Punjab Government letter No. 5 (Revenue) dated 8th January 1914.

"(1) On the death of any male pensioner one half of his pension will be continued to his direct male heirs, and divided among them according to the ordinary custom of inheritance, provided that all pensions of not more than Rs 50 per annum claimable under this rule shall be compulsorily commuted at the ordinary rates

"(2) On the death of any male pensioner, one half of his pension will be continued to his widow (if any), or (if there are several widows) divided among his widows in equal shares, provided that, if the deceased pensioner leaves motherless and unmarried daughter or daughters, the share of his pension to be allotted to his widows or widow shall be calculated as if the mother or mothers of such daughter or daughters were alive

"(3) On the death of any male pensioner, other than the head of the house for the time being, leaving motherless and unmarried daughters, the said daughters of each mother shall receive in equal shares one half of the pension to which their mother would have been entitled under rule 2, in case she had survived her husband

"(4) On the death of any widow in receipt of a pension under rule 2, one half of such pension shall be continued to her unmarried daughters (if any) upon equal shares

"(5) Pensions to widows under rule 2 are life pensions Pensions of daughters under rule 3 or rule 4 cease upon death or marriage of the pensioners, but when they cease for the latter reason the pensioners are eligible for dowries under the ordinary rules

"(6) All pensions are held during the pleasure of Government and subject to the usual conditions of good behaviour, loyalty and service The Local Government may refuse to grant any pension claimable under these rules, if the claimant appears to be an unfit recipient of Government bounty."

Pensions of Anandpur Sodhis

189 These rules are applicable to the pensions of the well known *Sodhi* family of Anandpur, in Hoshiarpur, for which indeed they were originally framed * But the head of that family for the time being is in each generation entitled to receive a cash pension of Rs 2,400 a year Hence in applying the rules to the Anandpur *Sodhis* they must be read with certain additions, "other" being inserted before "male pensioners" in rule 1 and "other than the head of the house for the time being" after "male pensioner" in rule 2

Powers of Collectors with reference to Bedi and Sodhi grants.

190 Collectors will accordingly be able to dispose on their own authority of all cases of lapsing *Bedi* and *Sodhi* pensions and *jagirs* and *m'afis*, only reporting for orders of higher authority cases in which they consider that pensions should be refused or that more liberal

* Government of India, Foreign Department, No. 1992 G, dated 16th October 1881

pensions should be allowed or in which for special reasons they think that a lapsing grant in the form of a *jagir* or *m afi* should be continued in that form Cases in which more liberal pensions than the rules allow can properly be recommended will be extremely rare But it is probable that some cases will occur in which it may be advisable to propose continuance in its original form of a lapsing life tenure *Sodhi* or *Bedi jagir* or *m afi* grant Such a proposal should not however, be made unless the release of the grant can be recommended for some term other than life such as during the pleasure of Government, in the case of a very ancient grant held by a family of some distinction or during maintenance of a religious or charitable building or institution or of a roadside garden where such building or garden is found to exist in connection with the grant and to be worthy of support *

Policy of Government with reference to grants in favour of religious and charitable institutions

191 *It has always been the policy of Government to be especially* liberal in maintaining the grants made by native rulers for the support of religious and charitable institutions The orders of Lord Hardinge and Lord Dalhousie on the subject are given in paragraphs 86 and 93 and the rule in force in the Delhi territory is noted in paragraph 182 (*d*) Orders issued in 1860 required district officers to refrain from resuming life grants in favour of a mosque or temple if the institution was valued by the people and resumption was likely to prove distasteful to them Such cases were to be reported for orders The same course was to be followed as regards life grants for the support of *dharmsalas takiyas* or *khankahs* if resumption would cause serious dissatisfaction

These injunctions were repeated in a more general form in the rules under the Land Revenue Act XXXIII of 1871, and in 1881 Settlement Officers were told that grants to religious institutions released originally for the term of the first regular settlement should be continued for that of the revised settlement if there were no new or special reasons to the contrary † The same policy is embodied in the more detailed instructions drawn up by Mr Lyall as Financial Commissioner in 1883 quoted below These related in the first instance *to the treatment of land revenue assignments in the Una tahsil* of Hoshiarpur which was under settlement but they were reproduced in a circular of the Settlement Commissioner

Instructions issued by Mr Lyall in 1883

192 The principles laid down by Mr Lyall were as follows —

(*i*) Where the grant is attached to a *dharamsala* or *takiya* which still exists and is served in the same fashion as at last settlement the grant should be maintained subject to revision by the Deputy Commissioner on the death of present holders, notwithstanding that the building may be only *kacha* and that the grant in value or area may be very petty and may have originally been granted by the villagers only

*For further instructions see paragraph 8 of Financial Commissioners Standing Order No 7

† Punjab Government No 447 dated 13th April 1881 and Financial Commissioner s circular No 951 of 1st August 1881

"(ii) Where the grant is attached to a *thakurdwara*, *shiwala* or *khankah* consisting of a mosque or tomb containing a chapel for prayers, it should be maintained for another term of settlement, if the building be a real religious edifice still kept up as a place of worship, whether in the same village or district or not

"(iii) If the *thakurdwara* to which the grant is attached is merely the residence of a Brahmin with a *thakur* in some room of it, it should generally be resumed if the grantee of last settlement is dead and the present holder is not a fit object of charity

"(iv) Where the grant is not supposed to be attached to any building which worshippers can enter, but to small erections of the nature of Muhammadan graves Hindu cenotaphs, Sarwar Sultan *makans*, platforms of *pirs* or *devis*, &c , the grant should generally be resumed

"(v) Where the grant was given by the villagers to Brahmins for service as *pandit*, *pandha*, *parohit*, or *acharaj*, or to artisans and *amins* for village service it should be resumed, or, at most, be only continued for life to old men or women out of charity

"(vi) If such a grant as that last described was made by a Raja or ruler to a respectable family of Brahmin *parohits* as a subsistence grant, it may be maintained for another term of settlement, if the family is still respected and engaged in religious offices

"(vii) If the grant was made either by a ruler or by the villagers to men for keeping a school or for supplying water on a public road to travellers, it should be treated as a grant for public rather than for village service, and should be maintained, unless it appears that the original purpose is not fulfilled"

Where grants were resumed the villagers were to be given an opportunity of excluding the land from assessment in distributing the revenue of the estate over holdings

Proposal to adopt a less liberal policy as regards petty village m'afis

193 In 1886 the Financial Commissioner represented that these instructions were too liberal as regards "petty village *m'afis*" They wished to draw a broad distinction between institutions which benefited only the village in which they were situated and those which were places of general resort They proposed to resume assignments in favour of the former so far as Government was concerned, leaving it to the landowners to continue them, if they pleased, as grants from themselves in the way described above They therefore drafted a circular on "petty village *m'afis*", of which the second paragraph may be quoted—

"In general, such grants when made for the term of settlement or for some period not precisely defined (but not for a life or lives) should be resumed from the date of the

introduction of a new assessment, except in cases in which some distinctly public convenience is secured by their existence Thus grants to the more important *takiyas* and *dharmsalas* which are situated on roads frequently used by travellers would in most cases be maintained The same remarks apply to all schools which are fairly well managed, even though their pupils may be drawn from single villages But grants attached to Muhammadan graves Hindu cenotaphs, *makans* of Sarwar Sultan, platforms of *pirs* and *devis* and other similar objects are useless so far as the public good is concerned, and should as a general rule be withdrawn Similarly grants made to village priests or religious teachers, or to village menials and artisans should not be continued, nor should grants to mosques and temples which are not places of general resort In fine, the principle to be borne in mind is that grants in connection with purposes of general public utility, whether material social or moral, should be maintained, but grants in connection with purposes which are either useless or benefit individual villages only should be resumed, the former recipients being left to the beneficence of those interested in the performance of their functions"

Rejection of proposal by Mr Lyall

194 Mr Lyall who was now Lieutenant Governor, objected strongly to the change of policy suggested, and refused to sanction the draft circular in which it was explained He remarked*—

"His Honour sees no reason for any change of policy, and considers a change in the direction of less liberality very inexpedient Any change now a days should be in the opposite direction, as the work of reducing the inordinate amount of revenue assignments in the province has been accomplished and the amount left is not very great Mr Lyall thinks that Settlement Officers and Deputy Commissioners are apt to be influenced somewhat unduly towards the resumption of petty grants because they give trouble, and because they are, so to speak, anomalies and awkward exceptions from general revenue rules. But we ought not to be led to adopt a severe and unpopular line of policy by such considerations It is well known that *m'afis* are valued much beyond their worth by the people, and sympathy with this feeling should be shown, when the money value involved is not serious

"The general principle stated in paragraph 2 of the draft circular that petty village *m'afis* should as a rule be resumed from the date of introduction of a new assessment, except in cases in which some distinct public

* Punjab Government No 70 dated 20th July 1887

convenience is secured by their existence appears to His Honour to be wrong in itself, a departure from past practice and politically very inexpedient, and Mr Lyall thinks that the proposal to extend this principle to grants made to village priests and religious teachers, or to village menials and artizans and to mosques and temples which are not places of general resort, is far too sweeping The rule given in paragraph 34 of appendix III to Barkley s Directions to Settlement Officers, page 38 is still substantially in force as indicating the right policy, that is to say, it is expedient that all endowments *bona fide* made for the maintenance of religious establishments or buildings for public accommodation should be maintained as long as the establishments or buildings are kept up, provided that when such grants are of great value they should be restricted to such smaller amounts as it may be thought politically expedient to grant Where the terms of the original order were 'release during maintenance or during the pleasure of Government, the Settlement Officer or Deputy Commissioner can only propose an alteration if he finds the establishments or buildings not kept up for their original purposes When, however, the original order was for release for the term of settlement the case is different Such cases are provided for by paragraph 2 of this office letter No 147, dated 19th April 1881, published with Financial Commissioner s circular No $\frac{\text{S IX}}{\text{25 S}}$ of 1st August 1881

"In the case of all grants for life or lives except *Bedi* and *Sodhi* grants the Deputy Commissioner or Settlement Officer can resume in the ordinary course in accordance with the original terms of release But the case of grants for the term of settlement is peculiar, as the meaning of these orders was not that the grants should be resumed at the end of the term of settlement, but merely that they might be reconsidered at the end of that term and the intention was no doubt that expressed in paragraph 2 of the letter of the Punjab Government above referred to *viz*, that in default of special reasons or new orders such grants would ordinarily be continued if no material change in character had occurred

"As regards resumption of life *m afs* on lapse, no new orders are necessary in the case of purely personal grants, which do not purport to benefit other persons than the holders, but it is advisable that the Settlement Officer should take the opportunity of the settlement to review the case of all life *m'afis* which appear to have been granted in return for service of any kind to the public

or to the people of the village, or to be connected with any institution such as a school, temple, mosque, *dharmsala*, or *takiya* The original orders sanctioning for life only were very hurriedly made, and in many cases really amounted only to a refusal to release in perpetuity Such cases were treated differently in different districts, in some the release was ordinarily allowed for life of the holder, in others for the term of settlement Hence it has been the practice to permit and encourage reconsiderations in such cases on lapse But this is very troublesome and inconvenient and tends to very unequal treatment Hence it is advisable that the Settlement Officer should generally review such cases, whether lapse has occurred or not, and if he thinks the grant should be continued for a longer term than the life of the incumbent, he should enter the case in a register for report, and should generally propose to release for the term of settlement, as that is safest, and allows reconsideration

In respect to purely village service or village institution *m'afis*, of which the sanctioned term is for the period of settlement or for life, the Settlement Officer should be empowered in the case of petty grants of not more than 3 acres in extent to practically resume at settlement, so far as Government is concerned (without, however, actually imposing any assessment or bringing the land into calculation in fixing the *jama* of the village) by recording orders in the *m'afi misl* and the *fard lakhiraj* that the grant shall be struck off the *fard lakhiraj* and the registers, and the land be included at the *bachh* in the *malguzari* area, with permission however, to the *zamindars* if the majority so wish, to exclude the land from the *bachh* during their pleasure In such cases, if the *zamindars* decide to exclude, the fact will be noted in the *bachh rubkar*, and the land will be held revenue free from the *zamindars* only, but, as far as Government is concerned, will be considered as *khalsa* The adoption of this procedure will place a number of these petty grants in their proper position of grants held from the *zamindars* They were originally allowed by the Government at the request of the *zamindars*, but by granting them independently of the *zamindars'* wishes and authority we have altered their character in an undesirable way. The exclusion of the grants from the registers will save much trouble at a very slight loss to Government, which loss will only be for the term of the settlement But this procedure should not be followed where there are clearly no grounds for continuance, and where the grant serves no good purpose, *e g*, where no service is now

rendered, and the *zamindars* clearly do not care for the grant to be continued In life tenure *m'afis* of this kind, where the term has not yet lapsed, the case cannot, of course, be so treated, but the order may be passed that at the death of the holder the *m'afi* will be assessed, and the revenue will go to the village *malba* "

Special treatment of village grants of an annual value not exceeding Rs 20

195 The special treatment sanctioned for village *m'afis* of not more than three acres really met the wishes of the Financial Commissioners to a large extent, for many of the grants with which their circular dealt were very petty The limit has since been raised from 'three acres' to "an annual value of Rs 20'* The proportion of village grants which bear a higher assessment than Rs. 20 must be extremely small

Existing orders as to small village grants

196 The orders of Sir James Lyall quoted in paragraph 194 had later been interpreted by Government as involving a distinction between (*a*) *m'afis* for the maintenance of "religious establishments or buildings for public accommodation" and (*b*) *m'afis* of the annual value of Rs 20 or less for the maintenance of other institutions or for village services, and the Collector's power to enforce the lapse of term expired grants of the former class had been withdrawn A decision whether an establishment is really religious or not will often be facilitated by application of the principles contained in sections (*ii*), (*iii*) and (*iv*) of paragraph 192 All grants of class (*a*) should on the expiry of the term of release be reported for the orders of the Financial Commissioner. If the establishment or building concerned is properly maintained, the *m'afi* should usually be recommended for continuation for another term of settlement under paragraph 5 I of Standing Order No 7 If it is proposed to enforce the lapse of the assignment, the grounds for resuming, *e g*, failure to maintain the establishment or building, should be reported and the orders of the Financial Commissioner obtained In the case of grants of class (*b*) the existing orders are—

"The Settlement Officer is empowered to adopt either of three courses —

(1) in the case of unexpired life *m'afis*, he may either record that on expiry they should be resumed and assessed in the ordinary way, or he may report them to the Financial Commissioner for sanction to maintain them for the term of the new settlement, should that be longer than the life term already sanctioned;

(2) in the case of *m'afis* for the term of settlement only, he may either resume and assess in the ordinary way; or

(3) he may resume as a grant from Government, but leave the land unassessed for one period of settlement in order to see whether the zemindars will agree to continue the *m'afis* as a grant from themselves by *khany parla* arrangement.

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* Punjab Government No. 144, dated 7th December 1891

"In the latter case orders will be recorded in the *m'afi misl* and the *fard lakhiraj* that the grant shall be struck off the *fard lakhiraj* and the registers, and the land be included at the *bachh* in the *malguzari* area, with permission, however, to the zemindars, if the majority so wish, to exclude the land from the *bachh* during their pleasure. The object of these instructions is to put these small *m'afis* on their original footing of lands released by the zemindars In order to effect this change more smoothly and with as few resumptions as possible on the part of the villagers the Government agrees to give up for one settlement the revenue which might have been assessed on these resumed *m'afis*. By this procedure it costs the villagers nothing to continue the grant as one from themselves and they are therefore more likely to adopt this course At the same time if they do elect to assess these plots it becomes clear that the assessment is their work and not ours.'

It is of course open to the Collector of a district to propose that a life *m'afi* for village service or in favour of a village institution, the term of which has expired by the death of the holder, should be continued for the period of the current settlement of the district

197 The law and practice as regards the assessment of lands of which the revenue is assigned are explained in paragraphs 180 81 of the Settlement Manual It is rarely necessary for the Collector to make a new assessment when a grant is resumed The following orders which were previously Land Revenue rules 214 and 215 and issued under section 59 of the Land Revenue Act provide that :—

Assessment of lands of which the revenue is assigned.

(a) When in any district or tahsil an assignment of land revenue is resumed, if that land revenue was assessed in the same form and by the same method as that in and by which land revenue paid to Government on the same estate or on adjacent estates was assessed at the last general assessment, no new assessment of the resumed assignment shall be made until a general re assessment of the district or tahsil is undertaken

(b) If the land revenue enjoyed by the assignee was not so assessed, or if, where the assignee was himself the land-owner, no assessment of his land has hitherto been made, the Collector shall assess land revenue on the land of which the revenue has been resumed in conformity with the principles and instructions on which the current assessment of the tahsil or district was made"

198 The owners of land of which the revenue is assigned are entitled to exactly the same treatment as regards revision of assessment, and *suspensions and remissions on account of calamities of* season, as the proprietors of *khalsa* lands * Special vigilance is

Revision of assessment and suspensions and remissions.

* Financial Commissioner s Book circular No LIII of 1860

required in enforcing this principle where a *jagirdar* is still allowed to collect the revenue direct from the landowners

Jurisdiction of civil courts as regards assignments barred between annexation and 1867

199 Lord Dalhousie's declaration that "by our occupation of the country, after the whole Sikh nation had been in arms against us we have acquired the absolute right of conquerors and would be justified in declaring every acre of land liable to Government assessment" has already been quoted (paragraph 89) Commenting on this in the case of Sardar Bhagwan Singh *versus* the Secretary of State (*Punjab Record*, 1875, No 1), the Judicial Committee of the Privy Council observed—

> 'It appears to their Lordships that by these directions to the Board it was contemplated by the Governor General to make what may be called a *tabula rasa* of tenures of this kind, and to re grant them on terms entirely at the discretion of the British Government, the Government no doubt intending to act with all fairness and consideration, especially to those who appear to have been not unfaithful to them, but at the same time in a manner which appeared right and just to themselves, and which they did not intend to be inquired into or questioned by any Municipal Courts"

The Board of Administration ruled in 1853 that the civil courts should not take cognizance of "claims of relatives to participation under the general laws of inheritance in rent free holdings which have been conferred on particular individuals by orders of Government"* And by sections 1—10 of the first part of the Punjab Civil Code, published in 1854, the jurisdiction of these courts was barred as regards "any matter relating to *jagir* rent free tenures, or tenures or other grants made by Government * * * * or to the succession thereto or to the shares, rights, and interests therein * * * * * but, if the *jagirdars* or *m'afidars* shall have farmed those rents or revenues to a third party, possessing no proprietary rights in the estate, then suits between the *jagirdar* or *m'afidar* and such third party may be entertained by the courts"

The first Code of Civil Procedure was extended to the Punjab from 1st October 1866 and between 1867 and 1871, when the Pensions Act was passed, the Chief Court claimed, and in a few instances exercised, jurisdiction in *jagir* cases

Provisions of the Pensions Act XXIII of 1871

200 The matter has been finally settled by sections 4 to 6 of Act XXIII of 1871, which provide that—

> "1 Except as hereinafter provided, no civil court shall entertain any suit relating to any pension or grant of money or land revenue conferred or made by the British or any former Government, whatever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment,

* Board circular No 5 of 1853.

claim, or right, for which such pension or grant may have been substituted

"5 Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the district * * * or other officer authorized in this behalf by the Local Government, and such Collector * * * * or other officer shall dispose of such claim in accordance with such rules as the Chief Revenue Authority may, subject to the general control of the Local Government, from time to time prescribe in this behalf

"6 A civil court, otherwise competent to try the same, shall take cognizance of any such claim upon receiving a certificate from such Collector * * * or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly"

Cases in which a certificate may be granted

201 Rules 8 and 9 issued under section 14 of Act XXIII of 1871* provide that—

"8 When a claim relating to a hereditary pension or grant of money or land revenue is preferred to a Deputy Commissioner under section 5 of the Act, and the inheritance of any other property, or of a share in the property, of a Hindu joint family is in dispute between the parties, the Deputy Commissioner may, with the sanction of the Financial Commissioner, certify that such may be tried by a civil court Such certificate shall be forwarded to the civil court having jurisdiction in regard to the other property in dispute

"9 When a claim relating to a hereditary pension or grant of money or land revenue, which is, according to law or by the terms of the grant, transferable, is preferred to a Deputy Commissioner under section 5 of the Act, the Deputy Commissioner may certify that such claim may be tried by a civil court"

The second rule refers to assignments in the Delhi territory made before its annexation to the Punjab (paragraphs 128—133)

Recovery of cost of assessment from *jagirdars*

202 The rules regarding the recovery from *jagirdars* of the cost of the assessment of lands of which the revenue is assigned will be found in appendix XIX of the Settlement Manual

* Financial Commissioners notification No 22, dated 3rd February 1910, and Punjab Land Administration Acts volume II

BOOK II.—Organization for purposes of land administration

CHAPTER IV

SCHEME OF REVENUE ADMINISTRATION

203. For the purposes of revenue management the Punjab is divided into 29 districts each in charge of a Deputy Commissioner or Collector. These districts are grouped into five divisions each under a Commissioner. The Commissioner exercises control over all the revenue officers and courts in his division, and is himself subject to the general superintendence and control of the Financial Commissioner, who, under the Revenue Member of Government, is the head of the revenue administration. At the headquarters of a district there are, in addition to a large ministerial staff several officers appointed by the local Government who exercise executive and judicial functions under the orders of the Deputy Commissioner. They are known as Assistant Commissioners if they are members of the Indian Civil Service and as Extra Assistant Commissioners if they belong to the Punjab Civil Service.* One of these Assistant or Extra Assistant Commissioners chosen for his special aptitude for revenue work and called the Revenue Assistant devotes almost the whole of his time to business connected with land administration.† A district is divided into several *tahsils*, to each of which a *tahsildar* and *naib tahsildar* are appointed.‡ The position of the *naib tahsildar* with reference to the *tahsildar* is like that of an Assistant Commissioner with reference to the head of the district. *Tahsildars* and *naib tahsildars* exercise administrative and judicial functions within the limits of their own *tahsils*. In a few there are two *naib tahsildars*. In such cases the one who possesses the larger experience sometimes has a definite part of the *tahsil* assigned to him as a sub tahsil within the limits of which he resides. In the same way in some districts one or more *tahsils* are formed into an out post or sub division and put in special charge of a resident Assistant or Extra Assistant Commissioner. Within his own sub division such an officer performs all the duties usually entrusted to a Revenue Assistant.

Revenue divisions districts and *tahsils*

204. The unit of revenue administration in the Punjab is the estate or *mahal* which is usually identical with the village or *mauza*.§ Of these estates large and small a *tahsil* as a rule contains from two to four hundred. Each of them is separately assessed to land revenue which it is the business of the Deputy Commissioner to collect and has a separate record of rights and register of fiscal and agricultural statistics which it is his duty to maintain. All its proprietors are by law jointly responsible for the payment of its land revenue and in their dealings with Government they are represented by one or more headmen or *lambardars*. The bond which unites the proprietary body may be

Villages and *mauzas*

* Act XVII of 1887 sections 6 7 8—11 and Act XVI of 1887 sections 78 and 79

† For the origin of this office see paragraphs 273 and 2 5 of this manual.

‡ Act XVII of 1887 sections 6 and 9

§ See Settlement Manual paragraphs 1?3 1?4

a strong and natural, or a weak and artificial, one At the one end of the scale are the compact village communities of Rohtak and Karnal, whose landowners are held together by real or assumed ties of kinship; at the other the estates of the south western Punjab, which are often mere collocations of independent well holdings, while in the new colonies there is little bond beyond such similarities of tribe, religion and home of the original colonists as the colonization officer may have been able to secure No Deputy Commissioner can rightly perform his duties without a full knowledge of the land tenures of his district * A careful perusal of the Gazetteer, and the reports of past settlements, will supply the foundation, but the superstructure must be built up by personal observation and enquiry, and by the examination of village note-books and records of rights. The village system of north western India, properly organized and wisely worked, forms a powerful engine of administration To make it still more effective, clusters of villages, which are united by the bond of tribal or historical association, or of common interests, are usually formed into circles or *zails*, over each of which is appointed a *zaildar* chosen by the Deputy Commissioner from among the leading village headmen The *zaildars* receive their emoluments from Government by a deduction from the land revenue the headmen are paid by the communities which they represent by a surcharge of five per cent on the revenue Together they form a valuable unofficial agency, through which the Deputy Commissioner and the *tahsildar* convey the wishes of Government to the people and secure the carrying out of their own orders

Patwaris and kanungos' circles

205 But there is also an official chain connecting the village with the *tahsil* For the purpose of the maintenance of revenue records and agricultural statistics, estates are grouped into small circles to each of which a *patwari* or village registrar is appointed About twenty of these circles form the charge of a field *kanungo*, whose duty it is to supervise the work of the *patwaris* *Kanungos* are servants of Government

Director of Land *Records*

206 To aid Deputy Commissioners and Commissioners in the maintenance of records of rights and revenue registers, and to advise *the Financial Commissioner and Government on these matters* and on measures for the promotion of agricultural efficiency, an officer, known as the Director of Land Records, is appointed † He has no administrative functions; his business is to inspect, advise, record and report His appointment therefore is in no way intended to set aside or lessen the powers and responsibilities belonging to Deputy Commissioners and Commissioners and to the Financial Commissioners in connection with every branch of revenue administration

Duties of Director of Land Records

207 Among the principal duties of the Director of Land Records are—

(a) the supervision of the *patwari* and *kanungo* agency, and the inspection of the records of rights and statistical

* For a description of village tenures see Chapter VIII of the Settlement Manual
† For the origin of these offices see paragraphs 271 274 and 275 of this manual.

records compiled through its means The posting of settlement *kanungos* and mappers His duties with regard to settlements are defined in Appendix XI B of the Settlement Manual ,

(b) the control of the income and expenditure of mutation fees and of all expenditure on contingencies connected with the *kanungo* and *patwari* establishment and with the revenue records ,

(c) crop price and weather reports return of wages, and of agricultural statistics, crop experiments by district officers and cattle census

(d) rain gauges

The Director of Land Records brings to the notice of the Deputy Commissioner or Commissioner any failure to carry out properly the provisions regarding these matters contained in the Land Revenue Act and rules or in administrative instructions issued by the Financial Commissioners On points of detail his recommendations should usually be accepted as those of an expert charged with duties of a technical character But all doubtful and important questions should be referred by the Director for the orders of the Financial Commissioner When a district is under settlement, or when special measures are being taken for the bringing of maps and records up to date as preliminary to re assessment, the Director will make his reports to the Financial Commissioner He must not himself issue instructions to the officer in charge Any orders which the Financial Commissioners may issue will be sent through the Commissioner In other cases reports by the Director of Land Records on his inspections of the land records of any district are submitted to the Commissioner of the division The Director of Land Records is also Inspector General of Registration

Duties of Director of Agriculture

208 In order to promote the technical efficiency of Agriculture a separate department has been constituted under a Director The Director of Agriculture has charge of the following subjects —

(a) Agricultural education and research at the Punjab Agricultural College and Research Institute Lyallpur and at the agricultural farms

(b) Experimental seed and demonstration farms

(c) Agricultural engineering including well boring lift irrigation, implements etc

(d) Measures for encouraging the adoption of improved seed, implements methods of cultivation and for controlling plant diseases insect pests etc

(e) Agricultural associations competitions exhibition and produce shows

(f) Rural industries silk bees lac and poultry

(g) Crop experiments when carried out by officers of the department

(h) The Lawrence Gardens, Lahore

(i) Administration of the Cotton Ginning and Pressing Factories Act of 1925

(j) Crop forecasts

Development of the Agricultural Department

208 A. The need for more attention being paid to the application of science to agriculture was repeatedly brought to the notice of the Government of India, and in 1871 a Department of Revenue, Agriculture and Commerce was established. In the provinces the subject of agricultural improvement was similarly allotted to the Revenue Department, but little was done beyond the organization of a system of agricultural statistics and a few attempts at the introduction of implements and seeds from abroad. The Famine Commission of 1880 made a thorough review of the whole agricultural situation and recommended, amongst other matters, the constitution of an Agricultural Department in each province with a Director at its head; this department's main functions were to be agricultural enquiry and improvement and famine relief. The next ten years saw many conferences and the position in the provinces was carefully investigated. The Secretary of State sent out in 1889 Dr Voelcker, Consulting Chemist to the Royal Agricultural Society, to advise as to the best methods of applying to Indian agriculture the teachings of agricultural chemistry, and his recommendations were later embodied in his book 'The Improvement of Indian Agriculture.' Shortly after the Government of India began to recruit its first experts, but little progress in this direction was made in the provinces until the Famine Commission of 1901 recommended the strengthening of the expert staff in the provinces; Lord Curzon's Government took speedy action on these recommendations, and the despatch to the Secretary of State of 1905 led to the inauguration of a separate Department of Agriculture in 1906. Previous to this, the only attempt at experiment on modern lines had been confined to the farm of 56 acres opened at Lyallpur in 1901, which was staffed with agricultural assistants trained at Cawnpore. The first Deputy Director of Agriculture was sanctioned in 1904, and about the same time the province shared an Economic Botanist with the United Provinces.

The despatch to the Secretary of State above-mentioned (No. 16, dated 12th January 1905) enunciated the following policy:—

> "*In a country so largely agricultural as India, a Government,* which owns the largest landed estate in the world should do far more than we are now doing for the improvement of local agriculture. The ultimate aim which we set before ourselves is the establishment of an experimental farm in each large tract of country, of which the agricultural conditions are approximately homogeneous, to be supplemented by numerous small demonstration farms, the creation of an agricultural college, teaching up to a three years' course in each of the larger provinces and the provision of an expert staff in connection with these colleges for purposes of research as well as of education. . . . The establishment of seed and demonstration farms will certainly form part of our programme."

In the same year the Government of India announced their policy of setting aside annually a sum of twenty lakhs of rupees subsequently increased to Rs 24 lakhs, for the development of agricultural research, experiment demonstration and education in the provinces The aim was to establish agricultural colleges with expert staffs for instruction and research under a wholetime Director, and the experts were provided for by the constitution of an Imperial Agricultural Service in 1906 Progress along the lines prescribed in 1905 continued steadily, except for the interruption caused by the war until the introduction of the Reforms

With the inauguration of the Reforms scheme in 1921 Agriculture became a Transferred Department under the charge of a Minister The functions of the department are divided into three main heads —

(1) Education
(2) Research and investigation
(3) Demonstration and propaganda

Education —The Punjab Agricultural College Lyallpur, was opened in September 1909 Its main object is to give such training in scientific agriculture as will enable the students to promote the progress of agriculture in the province on the most approved modern lines In 1917 the institution was affiliated to the Punjab University, and since then it has had a four years degree course Combined with the college is a well equipped research institute which is the main centre of agricultural research in the province

The botanical section of the research institute works on improved types of wheats, cottons grams, barleys millets oil seeds fodder crops etc and also deals with fruit cultivation and mycological problems

The chemical section undertakes analytic work on soils, manures, fodders, etc , the determination of the nutritive value of crops and other animal foods , work on the reclamation of *bara* lands bacteriological research, including seed inoculation, etc

The entomological section conducts researches on insect and other animal pests and studies means to combat them It also deals with sericulture, apiculture and lac culture

Th[illegible] ion of schemes [illegible] ary wells and [illegible] work on well boring machines, strainers, agricultural implements, etc

Investigations conducted outside the Lyallpur Institution —There are experimental farms at Gurdaspur, Hansi, Sirsa, Lyallpur, Multan, Montgomery, Rawalpindi and Sargodha, in addition to various seed and demonstration farms The experimental farms carry out experiments with different types of crops in order to ascertain their suitability to particular tracts to show the effects of different methods of cultivation, irrigation and manuring, and to test the relative usefulness of different types of agricultural implements They also afford demonstrations to the zamindars who visit them

CHAPTER V.

THE SUPERIOR REVENUE OFFICERS OF A DISTRICT.

Revenue officers under Land Revenue and Tenancy Acts

210 The Deputy Commissioner, as the head of the revenue administration of his district, is known as the Collector, and his assistants including *tahsildars* and *naib tahsildars*, as Assistant Collectors of the first or second grade * Under the Land Revenue and Tenancy Acts there are the same classes of revenue officers and a revenue officer of any grade is deemed to be a revenue court of the same grade † The powers of the Collector and Assistant Collectors as revenue officers are described in the next chapter, and their jurisdiction as revenue courts in chapter XXIII. On first appointment, Assistant Commissioners and Extra Assistant Commissioner, exercise *ex officio* the powers of Assistant Collectors of the second grade ‡ As soon as they have been invested with 2nd class magisterial and civil powers, they become *ipso facto* Assistant Collectors of the first grade § *Tahsildars* and *naib tahsildars*, as such, are Assistant Collectors of the second grade, ‖ but the former may be appointed Assistant Collectors of the first grade ¶ The Deputy Commissioner is a Collector by virtue of his office, under the Acts and so it is not necessary to gazette him such powers but the local Government may confer all or any of the powers of a Collector on any other revenue officer in the district When a general reassessment is in progress, it is usual to give to the Settlement Officer all the powers of a Collector under the Land Revenue Act, except those which relate to the collection of revenue Instructions as to the division of work between the Deputy Commissioner and the Settlement Officer will be found in Appendix VI of the Settlement Manual

Revenue officers also magistrates

211 The Collector and his assistants are also magistrates This concentration in a single hand of executive and judicial functions has been a subject of controversy The advantages resulting from it were thus set forth by Thomason—

> "The influence and the opportunity of beneficial exertion which result from this are great *It is essential to the advancement of the public interests, entrusted to the Collector,* that complete security of life and property should exist throughout the district It is essential to the development of industry that all lawless violence should be repressed, and so repressed as least to interfere with the comfort and welfare of the peaceful and well disposed The strong establishments in the revenue department may be made the efficient agents for strengthening and

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* Section 6 (2) and (3) of Act XVII of 1887

† Sections 75 (1) and 77 (1) of Act XVI of 1887

‡ [illegible] 1st November 1887

regulating the police, and the Magistrate, in the discharge of his duties as Collector, will have opened out to him channels of information and sources of influence which, when duly improved, cannot fail to exercise a most beneficial effect "*

Relations of Deputy Commissioner with officers of other departments.

212 Thomason's remarks on the many sided character of a Deputy Commissioner's work are also worth quoting—

> "Nothing can pass in the district of which it is not the duty of the Collector to keep himself informed and to watch the operation The vicissitudes of trade, the administration of civil justice, the progress of public works, must all affect materially the interests of the classes of whom he is the constituted guardian Officious interference in matters beyond his immediate control must be avoided, but temperate and intelligent remonstrance against anything which he sees to be wrong is one of his most important duties †

If he shows tact and discretion, and cultivates personal relations with officers of other departments employed in his district, he will usually find that they are ready to attend carefully to any representations which he finds it his duty to make to them The administration of civil justice is no longer within his orbit, but even here it is his duty to report to his Commissioner matters affecting the welfare and contentment of the people

213 *Cancelled*

Qualifications required for successful district administration.

214 To manage a district successfully requires qualities rarely found united in a single person No man can properly represent Government to the people who is lacking in sympathy or in the power of conversing with them easily in their own tongue But to these qualities must be added patience and promptitude, tact and firmn[illegible]
character [illegible]
knowledge [illegible]
capacity for personal exertion, with a willingness to hand over to trustworthy subordinates a large share of the work, while maintaining complete control over the machinery of administration One great secret of success is this power of making full use of assistants in all grades The Collector who insists on doing everything himself is sure to leave many things undone, and to fritter away on small details time that should be devoted to more important matters At the same time he is responsible for and bound to control, all the doings of his subordinates, and there is nothing that these sooner detect than any failure in this respect It may be added that there is nothing they more readily believe than that this or that official, whose duties bring him much in contact with his master, has an undue influence over him The work should be carefully laid out, the part of it which is entrusted to each officer and the limits within which he may act on his own authority

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*Thomason's Directions for Collectors edition of 1850 paragraph 26

†Thomason's Directions for Collectors, edition of 1850, paragraph 27

being explained to him No one can do this who has not himself a thorough acquaintance with every branch of district work and of the powers and capacities of his establishment It may be said that much of the success of district administration depends on accuracy of judging how much may suitably be left to others and how much must be done by the Deputy Commissioner himself

Aids to rapid acquisition of knowledge of district.

215 Every Deputy Commissioner is bound, when making over charge, to hand to his successor a confidential memorandum calling his attention to the most important features of the district administration, and supplying him with notes as to the chief matters which are pending, and as to the character and capabilities of his principal subordinates * Much information regarding the district lies ready to hand in the Gazetteer and in Settlement and Assessment Reports If these sources of information are supplemented by diligent personal enquiry and systematic touring it is possible to obtain a real grasp of the work in a comparatively short space of time

216 *Cancelled*

Extra Assistant Commissioners and Tahsildars

217 The efficiency of a Collector s administration depends greatly on the extent to which he can get good work out of his colleagues and subordinates and this in turn depends to a large extent on his own conduct towards them Under the peculiar social difficulties of the country, the accurate estimate of character obtainable from the confidences of private intercourse is difficult to secure and it becomes all the more important to give free access to them in all official matters and to take every step to inspire them with confidence in his judgment, rectitude and impartiality Unwarranted suspicion may be as fatal as unwarranted confidence These officers are the executants of the Collector s ord [illegible]
will and shou [illegible]
of difficulty [illegible]
able to give a[illegible]
and dispassionately

Clerks and readers

218 The sympathetic treatment of clerks and readers is usually well repaid by better quality of work , forcing upon them irregular hours keeping them waiting at the officer s house, or insisting upon their standing for long stretches of time is apt to interfere with the rendering of full assistance

Errors of judgment should not be punished , neglect of or disobedience to orders may call for punishment, but the offence should be undoubted, and even then the appropriateness of a recorded reproof or warning should be considered Establishments on clerical work can no longer be fined but their increments may be postponed, promotion may be stopped and existing pay may be reduced

Training of Assistant Commissioners

219 The responsibility of Deputy Commissioners towards Assistant Commissioners under them is of a very special character in view of the fact that they may themselves in a few years be placed in charge of districts

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* Character books are maintained for all members of the office establishment in receipt of monthly salaries of Rs. 30 or upwards and for *Kanungos*

It is of great importance that they should receive a thorough training in the different branches of district administration, and the following orders have recently been issued on the subject —

During his first year the newly joined officer should—

(a) pass his departmental examinations in all subjects, including Urdu and Punjabi,

(b) familiarise himself with the people of the Punjab, especially the villagers, so that he may be able to understand their dealings with each other and relations with Government,

(c) do enough magisterial work to be able at a fairly early date after passing his examinations to perform the duties of Ilaqa Magistrate, or even Sub Divisional Officer, with confidence,

(d) *acquire a working knowledge of elementary revenue work*, both as a revenue officer and as a revenue court; and

(e) undergo training in treasury, office work and general administration

It is a mistake to give newly joined officers routine executive work during their first six months of service The average Assistant Commissioner arrives without any experience of essentials He hopes and expects to be given work at once and is only too pleased to take over a subject such as passports or the licensing of motor vehicles His request for work is sometimes difficult to resist but if it is acceded to, he is almost certain to be deceived by his clerks and may learn habits of inaccuracy which he will later regret

It should be recognized that newly joined officers are for at least six months merely pupils in executive matters and should have no independent responsibility

2 The following considerations should be borne in mind with regard to the matters mentioned in the preceding paragraph —

(a) *Departmental Examinations* —The learner must read books in his own time The main difficulty is with the languages A pass in the examination does not always mean that a candidate is intelligible in the field Assistant Commissioners under training should speak nothing but Urdu to the *tahsildars* and Revenue Assistants with whom they tour and these officers should have orders to correct their mistakes Urdu and Punjabi are best learned from selected Court readers who are less prone to talk down to their pupil than the ill qualified professional teacher usually available in small stations Urdu should be passed in May and Punjabi in October

To fulfil the language test so far as that relates to judicial work, officers should make a practice of reading through an easy petition or other simple vernacular record every day from the time they commence to study the language with a munshi and should seek to acquire as quickly as possible a knowledge of the translation of the commoner

terms used in the principal Acts which they have to take up, and in rules under them, particularly those under the Land Revenue and Tenancy Acts Parts of these should be read with the Court reader and a careful record should be made of the translation of all terms as they are met As soon as a knowledge of these has been acquired, officers should commence to practice themselves in re writing translations of easy judgments, &c which they will translate from the vernacular as explained above

Junior officers should take every opportunity of mixing and talking with all classes of Indians, and especially the agricultural classes No one should ever be discouraged at slow progress in speaking the language Even in the case of those who find special difficulty in picking up a language colloquially, experience shows that if only one struggles on persistently, fluency is bound to come in the long run. It is a good plan to note under various heads for ready reference all new words that one hears, and it is an excellent plan for acquiring the accent and run of the language to repeat over to oneself the words spoken by others as exactly as possible Whether they intend to go in for language reward examinations or not all junior officers should make a point of carefully reading through a certain number of good Urdu books during their first two or three years of service with a view to acquiring a good vocabulary Those officers, who, while studying the language, will take the trouble to acquire some facility in oriental penmanship will find that they will never regret the time spent on this accomplishment

(*b*) *Contact with the people* —A knowledge of the people and their ways can be acquired only by systematic touring Newly joined officers should be told to keep their eyes open on tour, and to ask questions about everything that they do not understand Administrative matters such as crime medical relief, education, the co-operative movement, communications, agricultural improvement and public health should be borne in mind and studied

(*c*) *Magisterial work* —As regards training in judicial work, the best plan at first is for a junior officer to sit some hours daily in the Court of another Magistrate or Judge for a week or two, and with his Codes in his hand learn by observation something of the actual practice [illegible] of reasoning which an in- [illegible] his decisions In learning [illegible] of the terms of procedure [illegible]
He should at the same time begin to work through the records of a number of simple cases with a Court reader, translating the evidence and the proceedings as he does so and afterwards using these translations for re-translation into the vernacular After two weeks of such work an officer will probably have gained sufficient experience to enable him to try very simple cases which the District Magistrate will select and send to him, or to make investigations for the District Magistrate into ordinary matters Every officer should continue for some months to translate his English judgments into the vernacular so as to acquire increased facility in this respect

(*d*) *Revenue work* —A properly arranged programme should give the Assistant Commissioner a general outline of the routine revenue work of a district From his third month the learner will do 2nd grade revenue court work From his seventh or eighth month he should be given the work of one or two kanungo s circles He should propose the mode of partition in a few partition cases for a Revenue Assistant, and should later be entrusted with all the 1st grade work in the circle selected, including revenue court work

(*e*) *Training in treasury office work and general administration* —Treasury training is best done in the summer whether in the plains or hills The outlines of office organisation should be taught early—say, in the second month, no independent office work should be given to a pupil until about the eighth month The best 'subject' to be entrusted to him then are local bodies $\frac{\text{and}}{\text{or}}$ excise Both these subjects involve the application of Acts and Rules vernacular correspondence with subordinate authorities, and formal English correspondence with superiors By "General Administration" is meant those administrative matters which cannot be grouped under any one head, but which occupy much of a Deputy Commissioner s time, *e g*, crime, the activities of the beneficent departments, elections, political unrest and the like The learner can best inform himself on these matters by discussion with his Deputy Commissioner He should also spend some days in the office of the district board, which, when the Deputy Commissioner is chairman, is not under the officer in-charge of local bodies These several matters require attention on tour and the Assistant Commissioner should be instructed accordingly when orders for each tour are given him

Tahsil may be made over to Assistant Commissioner

220 After a time it is a good plan to put an Assistant Commissioner in charge of a particular *tahsil*, and to make him spend in it a large part of the cold weather If this is done he will take an interest in the welfare of his charge, and exert himself to become fully acquainted with all that concerns it and to prevent the occurrence of any thing that is wrong He will have an opportunity of gaining a knowledge of every branch of his duty, which will fit him to manage a sub division or a district when entrusted to him An assistant in charge of a *tahsil* has an excellent opportunity, while refraining from any undue interference with the *tahsildar*, of making himself familiar with the daily routine of the work of a *tahsil* office, which is sure to be of great use to him in the future

Assistant Commissioners not to assume independent authority

221 An Assistant Commissioner is subject to the control of the Deputy Commissioner in all his work, and should not without his permission, issue orders making important changes, laying down rules of practice or censuring or punishing officials, but he may recommend such measures to the Deputy Commissioner He should not correspond with the Deputy Commissioner by official letter or *robkar*, as though his office were separate and distinct, but by demi official letter and personal conference, or by sending up the vernacular file which leads to the reference, usually with an English memorandum prefixed

prescribed papers and registers have been prepared in accordance with the rules and circular orders on the subject, whether they are complete to date and whether the entries correctly represent the facts to which they relate

Enquiry into management of Government forests

232 Where there are Government forests, their condition should be ascertained, the methods of management should be enquired into and attention should be paid to the relations between the forest establishment and the people Forest management is often regarded by the people as a grievance, and there are undoubtedly many points of detail in which local enquiries alone may bring proper understanding But all matters of this kind require to be very carefully and discreetly handled, and should not be taken up without sufficient reason All roadside groves and avenues should receive attention

Ascertainment of character of Indian subordinates

233 It is a matter of great importance to learn what character is borne by the *tahsildar* and *naib tahsildar* and by the subordinate Indian officials in the *tahsil* As regards subordinate officials there is usually no harm in making direct enquiries from respectable persons But great care must be taken to preserve the dignity of an official of the rank of a *tahsildar*, and to question the people of his own *tahsil* as to his conduct would generally be indiscreet But, if an officer is freely accessible to people of all classes, hints will be dropped and matters will be brought to his notice from which he can gradually form a very good idea of the estimation in which the *tahsildar* is held

Enquiry into general state of tract visited

234 The general condition of the tract should come under review The principal points for enquiry are the following —

(a) *Crops* —Are those on the ground in good condition? What has been the history of the previous three or four harvests? Have any new varieties been introduced?

(b) *Cultivation and irrigation* —Are they contracting or expanding? Is *takavi* freely taken for the construction of wells?

(c) *People* —Is the population increasing or falling off? What is its condition as regards health? Are owners' holdings becoming unduly small by sub division? Is much land changing hands? If so, what is the reason? And who are the principal purchasers and mortgagees?*

(d) *Live stock* —Is it increasing or diminishing? And what is its condition? How are the well cattle procured? And what do they usually cost if not home bred? Is there any sale of surplus stock?

(e) *Land revenue* —What proportion does the assessment bear to the value of the produce? Is its distribution over estates and holdings equitable? Are collections easily made or are coercive processes necessary? Have there

* The effect of the legislation on the subject of land alienation described in Chapter II of this Manual should be observed with special care

been any large remissions and suspensions? And, if so, why? What is the prospect of recovering the land revenue under suspension?

235 There are many other matters which an officer has to look into when on tour which do not fall within the scope of this manual, such, for example, as education, co operation, sanitary measures, vaccination, the state of crime and the conduct of the police, the excise arrangements and the extent to which smuggling and illicit distillation prevail All *thanas* dispensaries and schools should be carefully inspected, and roads rest houses *sarais* and encamping grounds should be examined, and their condition noted If there are co operative societies their working should be enquired into

Other matters for enquiry

236 When an officer halts at the headquarters of a *tahsil*, he should inspect the *tahsildar's* office Every *tahsil* office should be thoroughly overhauled every six months The Deputy Commissioner should himself inspect it at least once a year If he cannot make the second inspection himself he should direct the Revenue Assistant, or some other experienced Assistant or Extra Assistant Commissioner, to make it for him The scrutiny should include all branches of work—judicial, treasury, stamps excise *takavi*, land revenue and the *kanungo's* records* Special attention should be given to the examination of the records of rights and the agricultural registers and of the accounts relating to the different branches of revenue As to the latter the inspecting officer should ascertain whether they are regularly kept up and whether the amounts due to Government are punctually realized and without any unnecessary resort to coercive processes The causes of all outstanding balances should be traced Particular attention should always be paid to the running register of miscellaneous revenue A searching scrutiny of *tahsil* accounts on the spot is far more likely to detect irregularities and prevent their recurrence than fifty calls for written explanations from the district office Even if an officer had no other duties to perform, it would be difficult for him to overhaul the work of a *tahsil* thoroughly in a single day A perfunctory inspection is worse than useless, and will merely encourage the establishment to continue irregularities and malpractices which have escaped detection *A tour should therefore be so arranged as to allow of a halt of several* days at the headquarters of a *tahsil* If this is not possible, it is best to take up one or more branches of work and examine them thoroughly, and to leave the rest for a future occasion † *Tahsil* inspection can sometimes be done most thoroughly in the hot season Though ordinary camping is out of the question there is nothing to prevent an officer from spending some time at each *tahsil* headquarters

Inspection of *tahsil* offices.

237 Assistant Commissioners, European Extra Assistants and Indian Extra Assistants under training who know English sufficiently well while on tour, are required to keep a diary It must be written

Diaries of Assistant and Extra Assistant Commissioners

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* See also paragraph 389 of this manual

† The instructions regarding the maintenance of *tahsil* and district notebooks will be found in Financial Commissioners Standing Orders Nos. 14, 24 and 53

kanungo's and *patwari s* work and to visit most of the estates in the *tahsil* Deputy Commissioners should impress on their subordinates that perfunctory inspections are worse than useless, and that a man who has done his best will not be blamed because he has failed to see every village a task which, in many cases is impos ible The *tahsildar* or *naib tahsildar* when on tour should always carry with him a small scale sketch map of his charge showing village boundaries and sites main roads and canal and the limits of *zails* and of *kanungos* and *patwaris* circles He should also have with him a list of all *takavi* loans granted in the tract to be visited

Inspection of estates

246 On visiting an estate the *tahsildar* should attest the mutations He should also inspect the village site and lands if he is not already familiar with them and should examine the village revenue registers and note points for enquiry He should then discuss the condition and circumstances of the estate with the land owners the village officers the *zaildar* and the *kanungo* paying special attention to the causes of any large amount of alienation and the reasons for any difficulty experienced in collecting the revenue He should take the opportunity of seeing any works for which *takavi* has been given The *tahsildar s* harvest inspection work is referred to in Chapter IX *

Revenue work to be dealt with in villages to which it relates

247 In order to avoid taking agriculturists away from their homes all revenue work especially disputed partition *lambardari* and *muafi* cases should as far as possible, be dealt with at the village to which they relate By this means the attendance of all the parties will be secured and the facts of each case will be easily ascertained In the case of estates for which a detailed *jamabandi* is to be drawn up during the agricultural year mutation work must be disposed of in the village itself In other cases the *naib tahsildar* or *tahsildar*, if he cannot conveniently visit the estate may pass orders on its mutations at any other place within the *patwari's* circle

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* See paragraph 367 of this manual

CHAPTER VI

Powers of Revenue Officers

248 There are five classes of revenue officers the Financial Commissioner, the Commissioner, the Collector the Assistant Collector of the 1st grade, and the Assistant Collector of the 2nd grade * The Deputy Commissioner of a district is by virtue of his office its Collector † A revenue officer who is transferred from one district to another retains the powers with which he was invested in the former district ‡

Classes of revenue officers

249 There are many matters on which the Financial Commissioner is empowered by the Land Revenue and Tenancy Acts to make rules, but these do not take effect till they have been sanctioned by the local Government § There are also a number of executive proceedings regarding which his special orders are required For example, he fixes the amounts and dates of the instalments by which land revenue is paid ‖ and if to recover an arrear, the extreme step of annulling the assessment of an estate or holding, or of selling it outright has to be taken, his sanction must first be obtained ¶

Powers of the Financial Commissioner

250 While the Land Revenue and Tenancy Acts confer ample powers of general control on Commissioners there is practically no particular matter which they can legally deal with on their own initiative, or for the carrying out of which their sanction is required by these enactments One of the very few exceptions is that sales of immoveable property for the recovery of arrears are not complete till they have received their confirmation **

Powers of Commissioners

251 The Land Revenue Act declares that certain things must be done and certain orders must be passed by the Collector and that other things may be done and other orders may be passed, by a revenue officer There are but two cases in which any difference between the powers of the two grades of Assistant Collectors is mentioned in the Act Section 126 provides that proceedings relating *to the partition of land must be taken by an Assistant Collector of* the 1st grade, and they possess the right, which Assistant Collectors of the 2nd grade do not, of compelling parties before them to submit certain matters to arbitration †† But by section 10 the local Government has power, where the Act does not say expressly by what class of revenue officers any function is to be discharged, to determine the matter by notification, and this was done soon after

Powers of the Collector and Assistant Collectors

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ther two exceptions also relate to sales—

the enactment came into force * The class of revenue officer which can dispose of the various applications and proceedings which arise under the Tenancy Act is stated in its 76th section It will be observed that in the distribution of business there given no distinction is made between the powers of a Collector and those of an Assistant Collector of the 1st grade But the application of a landlord for leave to make an improvement on the holding of a tenant with a right of occupancy must be presented to the Collector, and he alone can enhance the rent after the improvement has been made and reduce it again after it has ceased to exist †

Enquiries by subordinate officers

252. It would be absolutely impossible for superior revenue officers, and especially for the Deputy Commissioner, to dispose of the numerous matters on which their orders are required, if the proceedings from first to last had to be held before themselves Provision has therefore been made that "a revenue officer may refer any case which he is empowered to dispose of . . to another revenue officer for investigation and report, and may decide the case upon the report"‡ This useful power must be exercised with discretion In matters of any importance the parties who will be directly affected by an order should be present when it is passed, and should be heard as far as is necessary However unpalatable a decision may be to a man, it loses half its sting if he feels that his case has been fully understood and carefully considered

Exclusion of jurisdiction of civil courts

253 Civil courts have no jurisdiction in respect of any matters of which revenue officers are empowered by the Land Revenue and Tenancy Acts to dispose of §

Execution by revenue officers of certain orders of civil courts

254 On the other hand, any order which a Civil or Criminal court issues for the attachment, sale, or delivery of land, or of an interest in land, or for the attachment or sale of the produce of land, must be executed through the Collector or a revenue officer appointed by the Collector for that purpose The rules on the subject will be found in the Financial Commissioner's Standing Order No 64 and the Rules and Orders of the High Court, Volume I, Chapter XII—Order XXI, Civil Procedure Code When the produce of land is attached no obstacle must be placed in the way of the person to whom it belongs reaping, gathering or storing it, and every care must be taken for its preservation ‖ As executant of the orders of Civil and Criminal Courts the function of a revenue officer is purely ministerial He is not concerned with the propriety of the order passed But if it is on the face of it illegal, if, for example, it directs the Collector to sell land belonging to a member of an agricultural tribe,¶ he will be justified in pointing this out to the civil court and, if necessary, to the Commissioner.

Functions of Collector under section 72 of the Civil Procedure Code

255 Under the provisions of section 72 of the Civil Procedure Code (Act V of 1908) a court may authorize the Collector to arrange for the satisfaction of a decree by the temporary alienation or management of land belonging to a judgment debtor The rules on the subject are quoted in the *Financial Commissioner's Standing Order No 64* Any alienation approved of would naturally take the form of one or other of the kinds of the mortgage allowed by Act XIII of 1900 Where the judgment debtor is deprived of the cultivating occupancy of the transferred land enough should be excluded from the transfer to furnish at least a bare subsistence for himself and his family

Procedure of revenue officers

256 The procedure of revenue officers is mainly governed by sections 18—23 127—135 and 152 of the Land Revenue Act and by a few rules issued under various sections of the Land Revenue and Tenancy Acts * Any number of tenants cultivating in the same estate may be made parties to proceedings under chapter III of the Tenancy Act but no order or decree must be made affecting any of them who has not had an opportunity of appearing and being heard †

Arbitration.

257 Sections 127—135 of the Land Revenue Act relate to arbitration which may be employed with the consent of parties in any proceeding and in a few proceedings without their consent ‡ A revenue officer is not bound by the award, but may modify it or reject it altogether Whatever his decision may be it is open to appeal just as if there had been no arbitration § There are no provisions about arbitration in the Tenancy Act but a rule under it|| has made the provisions on the subject in the Land Revenue Act applicable to most of the proceedings under the Tenancy Act

Legal practitioners

258 Legal practitioners may appear in proceedings before revenue officers and may present applications on behalf of their clients Though a person chooses to be represented by a pleader his own attendance may also be required and no formal pleadings will be heard except in *lambardari zaildari mafi* mutation and partition cases A revenue agent cannot without the permission of the presiding officer take any part in the examination of witnesses or address to him any argument on behalf of his client The fees of a legal practitioner are not allowed as costs in any proceeding without an express order of the revenue officer passed for reasons which

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* There are sections in the Tenancy Act corresponding to sections 18—23 and 152 of the Land Revenue Act as shown below —

Tenancy Act	*Land Revenue Act*
86 87 89*	18 19 152
90*	20
91*	21
92*	22
101*	23

The sections marked with an asterisk also govern the procedure of Revenue Courts The rules referred to in the text are Land Revenue Rules 34—46 and Tenancy Rules 2—13 at pages 18 and 28 of Punjab Land Administration Acts volume II

† Section 93 of Act XVI of 1887

‡ Section 17 of Act XVII of 1887

§ Section 135 of Act XVII of 1887

|| Rule 11 of the Punjab Tenancy Rules (P L A volume II)

he is bound to record * Legal practitioners cannot appear in proceedings under the Punjab Alienation of Land Act (XIII of 1900) †

Administrative control

259 Administrative control is exercised over all the revenue officers in a district by its Collector, in a division by its Commissioner, and in the whole province by the Financial Commissioner ‡ If any of the powers of a Collector under the Land Revenue Act are conferred on an Assistant Collector, he exercises them subject to the control of the Deputy Commissioner unless Government otherwise directs § Every controlling officer has authority to withdraw a case from any of his subordinates, and either hear it himself or refer it for disposal to some other revenue officer under his control ‖

Review of orders

260 Revenue officers of all grades possess large powers of reviewing their own orders and those of their predecessors provided no appeal against them has been lodged In the case of Assistant Collectors however the exercise of this power is in every case subject to the previous sanction of the Collector If the latter wishes to review any order passed by the predecessor of himself or of any former revenue officer of a lower class who has left no successor in office, he must obtain the Commissioner s permission The Commissioner may, like the Collector review his own order but without the leave of the Financial Commissioner he cannot reconsider an order passed by a former Commissioner The power of the Financial Commissioner to review an order of any of his predecessors is not subject to any such restriction Applications for review can only be entertained when they are presented within ninety days of the date of the order to which exception is taken but apparently there is no legal limitation of the time within which a revenue officer may review an order of his own motion Of course, persons who will be affected by the modification or reversal of an order must be given an opportunity of being heard in its support There is no appeal from an order refusing to review or confirming on review, a previous order ¶

Revision

261 The only officer who can revise an order not passed by himself or by one of his predecessors in office is the Financial Commissioner But any controlling officer may call for the file of a case

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* [illegible] 18 of Act XVII of 1887 [illegible] sioners Standing Order No 4

† Section 20 of Act XIII of 1900

‡ Section 11 of Act XVII of 1887 The corresponding section in Act XVI of 1887 is 78 which also applies to Revenue Courts

§ [illegible]

‖ Section 12 (2) of Act XVII of 1887 The corresponding section in the Tenancy Act 79 (2) also refers to Revenue Courts.

¶ Section 15 of Act XVII of 1887 and section 82 of Act XVI of 1887 The latter does not apply to Revenue Courts

pending before, or disposed of by, any of his subordinates in order to satisfy himself of the correctness of any final or intermediate order which has been passed If the Commissioner or the Collector thinks such an order ought to be altered, he can submit the file to the Financial Commissioner with a statement of his opinion No proceeding or order should be modified or reversed in such a way as to affect any question of right between private persons without giving them an opportunity of being heard *

Appeals. 262 The law of appeal is very simple Original orders passed by Assistant Collectors are appealable to the Collector, and original orders of the Collector to the Commissioner. An order confirmed on first appeal is final, and under no circumstances can there be more than a second appeal The only cases which can come before the Financial Commissioner on appeal are those in which Commissioners have modified or reversed original orders passed by Collectors †

Limitation in appeals 263 The period of limitation is thirty days, when the appeal lies to the Collector, sixty when it lies to the Commissioner, and ninety when it lies to the Financial Commissioner ‡

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* Section 16 of Act XVII of 1887 and [illegible] of Act XVI of 1887 [illegible]

order or decree of a Civil Court "

† Section 13 of Act XVII of 1887 and section 80 of Act XVI of 1887 The latter [illegible] appeals from decrees in suits under section 22 of the Alienation of Land Act [illegible] who have been specially empowered to [illegible]

‡ Section 14 of Act XVII of 1887 and section 81 of Act XVI of 1887 The latter applies also to Revenue Courts

CHAPTER VII

Patwaris and Kanungos

Patwari and *kanungo* staff before 1885

264 The term village officer, as used in the Land Revenue Act, means a headman, a chief headman, and a *patwari* * In this chapter we are only concerned with the *patwari* or village registrar and accountant, and with his immediate superior, the *kanungo* No efficient revenue administration of a district is possible unless the *patwari* staff is strong properly trained and strictly supervised by the *kanungos*, *tahsildars*, Revenue Assistant, and Deputy Commissioner

Object of reforms initiated in 1885

265 In the course of years effective measures have been taken to secure the proper performance by the *patwari* of his three chief duties—

(1) the maintenance of a record of the crops grown at every harvest,

(2) the keeping of the record of rights up to date by the punctual record of mutations, and

(3) the accurate preparation of statistical returns embodying the information derived from the harvest inspections, register of mutations and record of rights

These duties will be fully described in the 9th 10th and 11th chapters of this work

Principles of revenue policy sound but machinery for carrying them out wanting

266 The revenue policy of the Punjab from the beginning was founded on the principles laid down in Thomason's valuable treatise, the ' Directions for Settlement Officers ' and the "Directions for Collectors But the official machinery was too weak to secure effective compliance

267 }
268 }
269 } *Cancelled*
270 }

Indian Famine Commission of 1880 proposed—(1) Formation of Agricultural Department in each Province.

271 In spite of efforts to secure improvement, the revenue statistics of the province remained incomplete and unreliable until late into last century. But the lessons learned in the famine of 1877 78 made it impossible to leave things where they were In the report of the Indian Famine Commission which was presented to Parliament in 1880, great stress was laid on the necessity of creating

* Act XVII of 1887, 3 (11).

in each province a special Agricultural Department The Commissioners remarked —

> "Such an office in each province would have charge of all the records of past famines, and take note of all that is being usefully done or learnt in neighbouring provinces, so that the gathered results of past experience might be collected and made accessible, which has hitherto been hardly possible Through this office should be brought together the more comprehensive and exact record of the agricultural, vital and economic condition of the people to the urgent necessity of which we have already drawn attention Especially, when a famine is thought to be impending would such an office become important, as it would supply the Government with all statistics bearing on this subject, and would be responsible for working out from them the conclusions on which the decision as to future action would mainly rest When a famine is in progress all the information relating to relief measures their extent, their results, would be collected in it and presented in a uniform and intelligible manner, and through it all orders of the local Government relating to famine administration would be issued"

(2) Reform of *patwari* and *kanungo* agency

272 "The efficiency of such a special department, as we have proposed, will depend mainly on the completeness and accuracy with which the agricultural, vital, and economic statistics with which it has to deal are collected in each village and compiled in each sub division and district throughout the country' * * * * "The revenue system in the greater part of British India is such as to present unrivalled means of ascertaining, in the fullest manner, all necessary facts relating to agriculture, and to the different incidents of landed tenures in every village, but those means have nowhere been completely utilized and made as efficient as they might be We recommend that the body of village accountants should everywhere be put on a sound and satisfactory footing as responsible public officers with a clearly defined set of duties but with due consideration to the importance of their permanent connection with their own villages * * * * * "Over the village accountants there should be a staff of active sub officers employed in keeping them to their duty, inspecting their work, visiting each village in turn and checking the accuracy of all the items recorded concerning it"

(3) Appointment of Revenue Assistant in each district.

273 'Above these there should be a special officer in every district who would be, as a rule, of the rank of Deputy Collector, and whose main or only duty should be to take charge of all matters connected with the economic condition and well being of the people He would test and compile the agricultural returns and examine the market prices and ascertain from these and other *data* the relative value of each year's crop, according as it is below or above the average From such a continuous record of the harvests he would obtain *data* for judging

whether the landed classes were in a depressed or a prosperous condition, and how far they were prepared to meet a calamitous season It would be his object to obtain similar information as to all sections of the population, and to learn what are the causes of depression, and what classes would be the first to succumb under the pressure of scarcity and high prices The accurate regulation of vital statistics, and the investigation of the causes of any abnormal mortality, would lie within his province, and he would be the agent of the health officer of the district for the purpose of scrutinizing the record of births and deaths The extent of the food stocks, the ebb and flow of local trade, the current rate of interest charged on loans to different classes, the deficient or superabundant supply of any kinds of labour and the customary wages paid to each kind, these and other kindred topics on which information is at present far from precise would fall within the scope of his enquiries These officers, while generally subordinate to the Collector, would be specially under the orders of the Agricultural Department in respect of the system on which their returns are to be prepared and checked

(4) Appointment of Director of Agriculture in each province

274 "A Director of Agriculture should be appointed in each province as executive head of this Department chosen for his knowledge of the condition of the people and particularly of the agricultural classes He would directly control the special statistical officers and would be the adviser of the local Government on all matters relating to agriculture and statistics In ordinary times he would discharge these duties and superintend all measures designed to improve the agriculture of the country and in times of famine he would be the officer responsible for warning the Government as to the agricultural outlook, and for preparing such a forecast as should guide it in issuing instructions and setting on foot measures of relief"

Introduction of reforms in Punjab

275 The measures proposed by the Commission therefore embraced—

(a) the reform of the *patwari* staff,

(b) the provision of a sufficient staff of supervisors or *kanungos*,

(c) the appointment of a revenue assistant in each district,

(d) the appointment of a Director of Agriculture in each province

It fell to Colonel Wace, first as Settlement Commissioner and later as Financial Commissioner, to carry out these reforms, a task which he welcomed with enthusiasm To enable him to deal with the matter effectively he was appointed in 1882 Director of Agriculture while retaining the post of Settlement Commissioner* In 1883 a Revenue Assistant was appointed in each district, except Simla In the same year Colonel Wace prepared a scheme for the re organization of the *kanungo* staff, which was sanctioned with some modifications next

* His title was Commissioner of Settlement and Agriculture

year, and carried out in 1885 Hitherto the establishment in each district had consisted of a *sadr kanungo* at head quarters on Rs 60 per mensem, and a *kanungo* on Rs 25 with an assistant on Rs 15 at each *tahsil* The staff was now doubled The *kanungo* at the *tahsil* head-quarters became the office *kanungo* and a staff of field *kanungos* was provided to supervise the *patwaris'* work in their villages The pay and prospects of *kanungos* were much improved A Director of Land Records was appointed in 1885

Object of reforms in land record agency and procedure

276 These changes and the procedure connected with the reformed system of record were embodied in a new code of *patwari* and *kanungo* rules, the object of which was explained to be the securing of—

(a) real efficiency among the *patwaris* and *kanungos*,

(b) improved field-to field inspection, and record of the results of each harvest,

(c) the continuous record in convenient tables of the total results of each harvest and each year s husbandry these tables being kept first by villages, secondly by assessment circles, and thirdly by *tahsils*,

(d) the punctual record and attestation of all mutations of rights and their prompt incorporation in the *jamabandi*

(e) the cessation of the practice, under which in numerous cases mutation orders were passed in the absence of the parties, or after calling them away from their villages to the *tahsil* office,

(f) the release of the *tahsildars* and *naib tahsildars* from a large amount of revenue case work, which, under the procedure hitherto prescribed for such work, tied them to their *tahsil* offices and overburdened their small office establishment with clerical duties, and

(g) as a consequence the systematic visiting of each village, either by the *tahsildar* or *naib tahsildar*

Effect of reforms

277 The new system was embodied in the Punjab Land Revenue Act of 1887 and the rules issued under it Since it was introduced it has been modified in some of its details But no change affecting its main features has been made, and the soundness of the scheme has been proved by a steady improvement in the work of the *patwaris* and in the revenue administration of the districts

Organisation of *patwari* and *kanungo* staff reconsidered at settlement

278 The organization of the *patwari* and *kanungo* staff is carefully reconsidered when a district is being assessed and it is rarely necessary to make many changes in the interval between two settlements The limits of *patwaris'* circles are matters for the Commissioner to decide,* the number, grading and pay of *patwaris* require the sanction of the Financial Commissioner †

* Paragraph 1 of Financial Commissioners' Standing Order No 15

† Paragraphs 1, 2 and 36 of Financial Commissioners Standing Order No 15

Points for consideration in forming *patwaris* circles.

279 In fixing the limits of a circle the chief points to consider are the number of fields to be worked over at the harvest inspections, and the number of owners' holdings and cultivators' holdings for which entries have to be made in the record of rights The number given to each field in the village map is known as the *khasra* number, that assigned to each owner's holding in the record of rights is called the *jamabandi* number, and that allotted to each cultivator's holding the *khatauni* number A *patwari* should usually be able to keep up the records of a circle containing from 4,000 to 5 000 *khasra* and 1,200 to 1 600 *khatauni* numbers, but regard must be paid to the distances the *patwari* will have to travel, the nature of the country, the simplicity or complexity of the land tenures, and the inclusion in the circle of estates subject to river action or under fluctuating assessment, and the degree of fragmentation or consolidation of holdings A circle generally consists of several adjoining estates, but some large estates require the whole services of a *patwari* and a few have more than one

Grading of *patwaris*

280 Before 1885 there was a separate *patwari* cess, and each *patwari* received the amount levied in the villages of his circle A man with a small circle of rich highly cultivated estates drew much more pay than his fellow incharge of a much larger and more difficult circle containing villages where the precariousness of the crops had enforced a light assessment Now the *patwaris* of a district are distributed into grades with varying rates of pay *Patwaris* are graded as under —

1st grade, on Rs 26 per mensem	20 per cent
2nd grade on Rs 23 per mensem	40 ,,
3rd grade, on Rs 20 per mensem	40

Village officers cess

281 Section 29 of the Land Revenue Act, XVII of 1887 provided for the levy of a cess at a rate not exceeding 12½ per cent on the land revenue and canal owner's rate for the remuneration of village officers that is to say, headmen chief headmen and *patwaris* The headman retains a surcharge of 5 per cent * on the land revenue and owner's rate which he collects, and 1 per cent is payable to the chief headman, if there is one The balance used to be available for the remuneration of the *patwari* staff, but in 1906 the liability of the land owners for the pay of the *patwari* staff was abolished †

Assistant *patwaris*

282 It is usual to have a few young assistant *patwaris* receiving Rs 15 monthly Assistants should be used to help *patwaris* whose work is very heavy or to fill temporary leave vacancies Except in the latter case, they should not ordinarily be given any independent charge

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* Except in the case of all estates in the Kulu and Saraj tahsils of the Kangra district (exclusive of Lahul and Spiti) where the surcharge amounts to 7 per cent on the land revenue as there the village officers cess consists of —

(i) *Negi's* fee Rs 2 per cent
(ii) *Lambardar's* fee i e 1 per cent
(iii) *Rakha's* fee Re 0-8-0 per cent
} On the annual value which is double the land revenue

† Punjab Government, Department of Revenue and Agriculture/Revenue notifications Nos 268 and 269 dated 22nd November 1906

283 Salaries are drawn monthly and care should be taken that they are punctually disbursed Besides their pay *patwaris* receive a two fifth s share of the fees levied for the entry of mutations in the record of rights,* and are allowed to make certain small charges for allowing the inspection of their records and giving certified extracts † It is a rule to which no exceptions are allowed that the whole of the pay and all the fees must be given to the person who actually performs the duties of *patwari* ‡

Pay of *patwaris*

284 No revenue officer below the grade of Collector can appoint, punish, or dismiss a *patwari* Where the Revenue Assistant is an experienced and trustworthy officer there is no reason why he should not be invested with the powers of a Collector to enable him to fine a *patwari* But the Deputy Commissioner should keep the power to sanction appointments and dismissals in his own hands Recommendations should be received from the Revenue Assistant and where he is an impartial and sensible man they should usually be accepted Upon him mainly depends the efficiency of the *patwari* and *kanungo* staff He cannot have the proper amount of authority over it or be expected to work with zeal if his subordinates are given any reason to suspect that he has not the support and confidence of his chief

Appointment, punishment and dismissal of *patwaris*

285 A register of *patwari* candidates is kept up for each *tahsil* In most districts it is now possible to exclude men who have not passed the Middle School examination Neat and clear handwriting in the Urdu character and the power to work out simple sums in arithmetic quickly and correctly are essential and no candidate however well qualified otherwise, should be accepted who has not good physique and health and good eyesight Candidates must be between the age of 15 and 25 years It is undesirable that a large proportion of the candidates should belong to the money lending or trading classes, and the sons of agriculturists should be encouraged to come forward as candidates A clever and well educated lad who enters Government service as a *patwari* has very fair chances of promotion to higher posts The appointments of *tahsil* revenue accountant (*wasil bakhi navis*) and *siyaha navis* are whenever possible reserved for them and two thirds of the *kanungos* must be promoted *patwaris* § Once he becomes a field *kanungo* a *patwari* may hope to climb still higher on the official ladder *Patwaris* are also eligible for the post of *tahsil* judicial muharrir

Patwari **candidates.**

286 Every candidate must attend the *patwari* school and appear at the *patwari* examination His name should ordinarily be struck off the register if he fails to pass within three years ¶ The *patwari* school in each district should be opened on the 15th of April and closed

Patwari **school.**

* Punjab Government notification No 273 dated 20th November 1909 (page 7 of Punjab Land Administration Acts Volume II Rules)

† Paragraph 49 of Financial Commissioners Standing Order No 15

‡ Paragraph 36 of Financial Commissioners Standing Order No 15

§ Paragraphs 2 and 3 of Financial Commissioners Standing Order No. 19

|| See paragraph 300 of this manual.

¶ Paragraph 9 of Standing Order No 15

Duties of field *kanungo*.

294. The field *kanungo* should be constantly moving about his circle supervising the work of the *patwaris* on the spot, except in the month of September, when he stays at the *tahsil* to check the *jamabandis* received from the *patwaris* *

Duties of office *kanungo*

295 The office *kanungo* is the *tahsildar's* revenue clerk His chief work, the maintenance of the statistical revenue records, will be described in a later chapter † He has also charge of the forms and stationery required by *patwaris*, keeps the accounts of mutation fees, records the rainfall,‡ and maintains the register of assignees of land revenue and other miscellaneous revenue registers He is custodian of all the records received from *patwaris*, and a well ordered *kanungo's* office is an important factor in the revenue management of a *tahsil*

Duties of district *kanungo*.

296 The district *kanungo* is responsible for the efficiency of both the office and the field *kanungos*, and should be in camp inspecting their work for at least fifteen days in each month from 1st October to 30th April He is the keeper of all records received from *kanungos* ... he help of his assistant copies of the ... each assessment circle, *tahsil* and the ... as already noted, to give him one or more assistants for office work The pay of a *Sadr kanungo* is Rs 75—5/2—100 per mensem, and his assistant receives Rs 60 per mensem, except in Simla where he receives Rs 50—5—75 per mensem, while special *kanungos* entertained in connection with the scheme for making the contents of revenue records more readily accessible to litigants in Civil and Revenue Courts are paid at Rs 65 per mensem

Kanungos to be employed only on their proper work

297 All *kanungos* must be strictly confined to their own allotted work It would, for example, be improper to allow the district *kanungo* to be used by the Revenue Assistant as a reader Nor should a *tahsil* office *kanungo* be used for case work

Grades and pay of *kanungos*

298 Field and Office *kanungos* are graded on a single list, office *kanungos* being chosen from among the older field *kanungos* On first ... ppoint- ... ficiency ... ess and ... within 2 years of his first appointment, his name is struck off the list of *kanungos* and he is reverted to his original post, if any, no longer remaining a *kanungo* candidate F ... fourth of the whole number, ... ceive Rs 20 per mensem as ... of a district receive an allowance of Rs 5 per mensem if engaged in settlement work in the field or in the settlement office Field *kanungos* not

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* See part VIII of Financial Commissioners' Standing Order No 19

† See chapter XI

‡ See part IX of Standing Order No 19

§ See part X of Standing Order No 19

employed in settlement work get a stationery allowance of Re 1 per mensem Tahsil office *kanungos* receive Rs 60 per mensem

Note.—For [illegible] than a multiple of 4 [illegible] ult ple Thus where ther [illegible] Rs 50 per mensem

299 A register of accepted candidates for the post of *kanungo* is maintained *Patwaris* of three years' service and belonging to the 1st or 2nd grade are eligible Most of the candidates should be drawn from this class as two thirds of the vacancies among *kanungos* must be given to *patwaris* In choosing candidates it should be remembered that a *patwari* whose age exceeds thirty five years should not as a rule be promoted to a *kanungo* ship A few men below the age of twenty five who have passed the Entrance examination of the Punjab University may be accepted But such candidates must not be given appointments till they have served two years as *patwaris* or as apprentices learning *patwari's* work Persons who have passed the *tahsildar's* or *naib-tahsildar's* examination may be given *kanungo's* posts, though their names are not on the register No one should be accepted as a candidate who is not of active habits and able to ride There is no such thing as a hereditary claim to a *kanungo's* post, and the caution given as to the classes from which the bulk of the candidates should not be drawn in the case of *patwaris* applies equally to that of *kanungos* Candidates must appear at the local examination held by the Director of Land Records On passing it and giving evidence that they have received a proper practical training they are entitled to certificates of efficiency *

Kanungo candidates.

300 Great care should be taken in choosing *kanungo* candidates and there is not much difficulty in getting suitable men The post itself is a respectable one as regards pay and position, and it carries the chance of promotion to the office of district *kanungo* the appointment of district revenue accountant (*sadr wasil baki nawis*) or a *naib-tahsildar*ship Any *kanungo* who has served Government for five years including at least two years approved service as field *kanungo* may be selected as a *naib tahsildar* candidate The Commissioner's register should always contain some names drawn from the *kanungo's* list It is true that few promoted *kanungos* are likely to rise above the rank of *naib-tahsildar* by becoming *tahsildars* They are usually, at least when they have started as *patwaris* made *naib tahsildars* too late in life to do so But their previous training fits them to do very good work as *naib tahsildar* and the post of a 1st grade *naib tahsildar* is sufficiently honourable and well paid to satisfy the ambitions of most men of the class from which the *kanungo* staff is mainly drawn A permanent or officiating district *kanungo* is entitled to appear at the *naib tahsildars* examination, and, if he passes his name is put on the register of candidate ‡ A district *kanungo* of not less than two years standing

Claims of kanungos to higher posts.

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* See parts I and V of Financial Commissioners Standing Order No. 19

† Paragraph 39 (i) of Standing Order No. 19

‡ Paragraph 32 (ii) of Standing Order No 19

may be selected by the Financial Commissioner as a candidate for the post of *tahsildar* *

Kanungos in districts under settlement

301 When a district is being reassessed, the *kanungos* work under the orders of the Settlement Officer, who finds it necessary to employ

with a number of qualified candidates

Training of *kanungo* candidates in settlement work

302 Where possible the Director of Land Records arranges to give *kanungo* candidates from districts not under settlement a practical training in settlement work

Filling up of post of district *kanungo*

303 A vacancy in the office of district *kanungo* must be filled by the promotion of an office or field *kanungo* The post is one which can only properly be filled by a well educated man of active habits, of good natural ability, and sufficient acquired experience A fair knowledge of English is an indispensable qualification for appointment No particular examination test has been prescribed, but ability to read and write English reports intelligibly and fairly quickly is demanded This appointment is considered so important that the Deputy Commissioner is required to consult the Director of Land Records in filling it up, permanently or temporarily for a period longer than six months, though he is not bound to follow his advice If his advice is not followed and the appointment made seems to the Director of Land Records really unsuitable, he may refer the matter to the Commissioner

Disabilities of *kanungos*

304 The rule regarding residence is the same *mutatis mutandis* for field *kanungos* as for *patwaris*, and *kanungos* are under the same regulations as *patwaris* as regards trading, borrowing and lending, holding land, writing and attesting documents †

* Paragraph 32 (iii) of Financial Commissioners' Standing Order No 19

† Paragraphs 24 25 of Standing Order No 19

CHAPTER VIII

Village Headmen, Inamdars and Zaildars

Value of unofficial agency

305 In the last two chapters the strong body of Government servants, of which the Deputy Commissioner is the head, has been described It is a powerful piece of administrative machinery, but, as links between the higher officers and the communities for whose welfare they are responsible its inferior members have the defects which belong to purely official agency They have therefore been supplemented by representatives of the landowners in the shape of village headmen, *inamdars* and *zaildars*

Convenience of dealing with village communities through headmen.

306 It is obviously convenient for the State to deal with bodies like village communities through headmen The internal affairs of such communities used to be, and in some places still in a measure are managed by informal councils or *panchayats* But these have fallen into decay and in any case their constitution was too loose for them to serve as intermediaries between the rulers and the land owners * The Sikh Government like our own found it useful to have such intermediaries † The *chaudhris* and *mukaddims* through whom it dealt with the people corresponded roughly with our *zaildars* and *lambardars*

Duties of headmen.

307 The headmen of a village act on behalf of the landowners, tenants and other residents in their relations with the State They are bound to attend when summoned by officers of Government and to aid them in the execution of their public duties Their important functions as regards the prevention and detection of crime do not fall within the scope of this work Their chief duties are set forth in some detail in a vernacular memorandum which is given to each headman on his appointment Those connected with land administration may be summarized as follows —

A Duties to Government—

1 To collect and pay into the treasury the land revenue and all sums recoverable as land revenue

2 To report to the *tahsildar*—

(*a*) the deaths of assignees and pensioners and their absence for over a year

(*b*) encroachments on, or injury to, Government property

3 To aid—

(*a*) in carrying out harvest inspections surveys the record of mutations and other revenue business

(*b*) in providing, on payment supplies or means of transport for troops and officers of Government

* See paragraph 1[illegible] of the Settlement Manual.

† See paragraphs 115 and 117 of the Settlement Manual.

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B Duties to landowners and tenants of estate—

1 To acknowledge every payment received from them in their *parcha* books

2 To collect and manage the common village fund (*malba*), and account to the shareholders for all receipts and expenditure *

The duties of headmen as regards the collections of revenue (*A* 1 and *B* 1 on page 128 and above) are dealt with in chapter XV Those which fall under heads A 2 (*a*) and (*b*) and A 3 (*a*) call for no remark The Financial Commissioner's Standing Order No 58 deals with transport and supplies for troops As regards the village *malba* (B 2), the 93rd and 94th paragraphs of the Settlement Manual may be consulted

Remuneration of headmen

308 The manner in which headmen are remunerated for their services has already been noticed † The *pachotra* or surcharge of 5 per cent on the land revenue to which they are entitled is calculated not on the demand, but on the amount collected A suspension or remission of the land revenue therefore involves the suspension or remission of a corresponding share of the *pachotra* As headmen collect their own *pachotra*, it may be doubted whether this rule is always carried out, but, in case of dispute, it must be enforced Headmen usually receive an allowance of 3 per cent on account of collections of canal occupier's rate

Appointment and dismissal in districts under settlement

309 When a district is under settlement, headmen are appointed by the Settlement Officer ‡ When the question of dismissing a headman arises, the Settlement Officer deals with the matter if the malfeasance was connected with work under his control, otherwise the Deputy Commissioner is the final authority The officer with whom the actual decision rests should consult his colleague before passing orders

Headman must be land owner of village.

310 The headman or headmen must be chosen from among the landowners of the village In the case of Government estates, or estates in which Government owns a considerable share, he may be one of the Government tenants §

Too many headmen often appointed at first regular settlement

311 The existing *lambardari* arrangements in most villages were made when they were first brought under a regular settlement It was often found that a considerable number of the owners had in fact received a share of the *pachotra* and that there were many claimants for the office of headman The original arrangements can be recast and the number of headmen reduced with the sanction of the Financial Commissioner, (see paragraph 329) When a readjustment of the *pachotra* is advisable for any reason, the Collector can take action under Land Revenue Rule 21 (iv)

* See Land Revenue Rule 20 (page 14 of Punjab Land Acts volume II)

† See paragraph 281 of this manual

‡ See paragraph 235 of the Settlement Manual

§ Land Revenue Rule 14 (page 11 of Punjab Land Acts volume II)

312 In making new appointments, as distinguished from the filling up of vacancies in existing posts, the chief matters to consider are—

Matters to be considered in making new appointments.

(i) the constitution of the community to be represented,

(ii) the family claims of the candidates,

(c) the extent of their landed property and their freedom from debt

(d) their character, ability and personal influence

(e) any services rendered to the State by themselves or the families to which they belong *

The first point is important in deciding how many headmen are required The number should be as small as possible having regard to the claim of each principal branch of the community to have its own representative

313 New appointments are nowadays exceptional save in the case of estates carved out of the Government waste Where such an estate is leased to a single lessee he becomes *ipso facto* headman for the period of his lease In the villages which have recently been planted in hundreds on State lands brought under cultivation by means of the Upper and Lower Chenab the Upper and Lower Jhelum, the Lower Bari Doab and the Sutlej Valley Canals the *lambardari* arrangements are governed by the constitution of the groups of colonists who have occupied the new settlements In an ordinary district new appointments are only necessary when the family in which the post is hereditary becomes extinct when a headman resigns or is dismissed or in the rare cases in which an increase in the number of headmen is sanctioned by the Commissioner

New appointments of headmen

314 A headman once appointed holds office for life unless the Deputy Commissioner dismisses him or accepts his resignation No man should ordinarily be retained in office who either does not or cannot carry out the duties efficiently But in some cases where inability to do so is of a temporary nature and in other where it springs from unavoidable circumstances, the *lambardar* is allowed to retain the title and even in some cases a share of the emoluments, while a substitute is appointed to do the work

Ordinarily headman must perform duties himself

315 The commonest instance of a temporary inability is that of a headman being too young to act In that case the appointment of a substitute is imperative Another instance is absence from the village with the Deputy Commissioner's consent for a period not exceeding one year Old age or physical infirmity is a disability which it might savour of harshness to treat as a ground of dismissal A wide discretion is left to the Deputy Commissioner for he can allow a substitute or *sarbarah* not only in the circumstances mentioned above, but in any case in which good cause

Appointment of substitutes in certain cases

* Land Revenue Rule 15

can be shown for the *lambardar's* unfitness to do the work himself * An absentee landlord owning a whole estate may nominate for the approval of the Deputy Commissioner any of the residents to be his substitute As a rule, he will have an agent on the spot whom he will naturally put forward. Should he fail to nominate a fit person, the Deputy Commissioner chooses one of the resident tenants † Where in an estate owned by more than one person an absentee headman is responsible either individually or as a representative of other absentees for more than half of the land revenue, the Deputy Commissioner may appoint any resident owner or tenant to be *sarbarah* ‡ In this, and indeed in all cases in which substitutes are appointed for a *lambardar*, who is not a minor, the wishes of the substantive holder of the office should be put on record and fully considered Other things being equal, the best plan, when the headman has become unfit to do his work, is to choose as his substitute the man who would naturally succeed him in the office in the event of his death If this is his son, he will usually not be a "landowner," but this is no obstacle, for "regard shall be had to the property which the candidate will inherit from the person he is intended to represent in like manner as if he has already inherited it "§ In the case of minor *lambardars*, their mothers often ask for the appointment of a maternal uncle as *sarbarah* Ordinarily he is ineligible because he owns no land in the village, and in any case it is generally much more in accordance with local sentiment to select a near relative of the boy's father

Appointments in canal colonies.

315-A. In the colonies it has been the practice from the foundation of each estate to restrict the number of *lambardars* to one or two Where service conditions exist, as, for instance, in the horse-breeding chaks of the Lower Jhelum Canal Colony it is usually considered preferable to have only one *lambardar* These posts are so much coveted that the ordinary objection against having too few *lambardars* does not hold good Hereditary claims need not be regarded since the landholders are not proprietors, and therefore the Collector is free to select the most suitable landholder. In the newer colonies, where service conditions do not exist, two *lambardars* are ordinarily appointed.

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order to ensure the performance of services necessary for the efficiency of the administration of the province and the district These posts are not created to add to the prestige and affluence of influential and wealthy landowners, who have no intention of fulfilling the obligations of the post. An additional objection to the appointment of such pe
as *lambardars* is that in many chaks the result of their appointment

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* Land Revenue Rule 27

† Land Revenue Rule 26 (i)

‡ Land Revenue Rule 26 (ii)

§ Land Revenue Rule 29 (iii)

would be that the work of the *lambardar*, to all intents and purposes, would be performed by a servant, and that landholders of considerable social standing, such as retired commissioned military officers, would occupy a position of subordination to the *sarbarah lambardar*—a state of affairs to which they naturally have a strong objection. The land revenue rules with regard to the appointment of substitutes should therefore be most carefully observed. The only concession which can properly be made to influential and wealthy non resident landholders is that they should be appointed *lambardars* for the land which they hold themselves. In such cases they should not be permitted to have any hand in the management of the land allotted to the menials of the village.

Division of *pachotra*

316. It is permissible to divide the *pachotra* between the headman and his substitute. If it is intended to do so, the arrangement must be noted in the order of appointment, otherwise the substitute will receive the whole on the principle that the man who does the work should get the pay. In any case the substitute's share must not be fixed at less than one half.*

Removal of substitute.

317. The Deputy Commissioner may remove a substitute for any reason which would justify the removal of the headman himself or for any other sufficient reason.†

Resignation of headman

318. When a headman resigns he generally asks for the appointment of his son to succeed him, and, in order to give him the landowner's qualifications, offers to transfer a share of his holding to him by gift. Arrangements of this sort, being apt to lead to quarrels over the division of the family holding after the father's death, should be discouraged. Where the *lambardar* has done nothing to merit dismissal, it is better to retain him as nominal headman and to appoint his son to be his substitute.

Dismissal of headman.

319. The chief grounds on which a headman may properly be dismissed are four—

(*a*) loss of the status of landowner in the estate

(*b*) poverty,

(*c*) persistent neglect of duty

(*d*) crime ‡

The first calls for no remarks. Dismissal in such a case is imperative.

Poverty as ground of dismissal.

320. As regards the second, the collection of the dues of the State cannot safely be entrusted to a man who is himself insolvent. If a headman has mortgaged his own holding, and has ceased to be the person from whom its revenue is due to Government, he ought to be dismissed unless he can make arrangements to pay off within a short time the whole mortgage debt or so much of it as will suffice to release so much of the holding as will be sufficient

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* Land Revenue Rule 30

† Land Revenue Rule 29 (iv)

‡ Land Revenue Rule 16 (i) and (ii)

security for the Government revenue which passes through his hands In such a case the headman may be allowed a reasonable period within which to recover himself if meanwhile he can furnish security for the payment of the revenue and the discharge of his other duties But makeshift arrangements of this kind should not be continued for any length of time A headman, who is a defaulter in respect of his own holding ought not to be kept in office The mere fact, however that one or other of the minor processes referred to in paragraphs 520 and 521 of this Manual has been employed against him need not necessarily entail dismissal If the estate or sub division of the estate which the headman represents has had to be attached on account of arrears the Deputy Commissioner may dismiss the *lambardar* and the same course may be followed if the attachment is made by an order of any court of law Proof that a headman is heavily in debt, or that the amount of unencumbered land remaining in his possession is very small, at once raises the question of his fitness to retain office In these cases much depends on the cause of the man's difficulties and the likelihood of his being able to surmount them If the revenue is paid in punctually no readiness should be shown to harass a headman and gratify his rivals by fishing enquiries into his private affairs The practice which has prevailed in some places of encouraging *patwaris* to report cases of indebtedness is very objectionable No *tahsildar* who exercises proper control over the land revenue collection and who moves freely among the people, has any need of such written reports and the acceptance of them puts the *patwari* in a position with reference to headmen which he has no right to occupy

Punishment for neglect of duty

821 Neglect of duty which is either gross or persistent should be followed by removal from office Minor breaches of rules or acts of negligence may be punished—

(*a*) by the forfeiture of the whole or part of the *pachotra*, or
(*b*) by suspension from office for a term not exceeding a year

Orders attaching the *pachotra* usually only relate to that due at the next harvest, and in no case should the *pachotra* of more than two harvests be declared forfeit A substitute may be appointed to do the work of a headman under suspension *

Commission of criminal offence as ground of dismissal.

822 Considering that one of the chief duties of a headman is to aid in the prevention and detection of crime, he ought to be removed from office if convicted of any serious offence If he is sent to jail for a year or more the Deputy Commissioner has no choice, he must dismiss him, otherwise he has a discretion Every petty breach of the criminal law need not be magnified into a ground for dismissal The conditions of life in a Punjab village are such that a man is very liable to be hauled before a magistrate for acts or alleged acts, which are offences under the Indian Penal Code, but which it is an abuse of language to qualify as crimes The only rule

* Land Revenue Rule 25

that can be laid down is that, if the facts proved against a headman indicate that he is unfit to be entrusted with the duties of his post, he should cease to hold it. If he is shown to be dishonest, or to consort with bad characters obviously he should be dismissed. A conviction of theft or cheating proves him unfit to have charge of public money; an order to give security to be of good behaviour or trustworthy evidence of connivance with illicit distilling makes it clear that the offender cannot be relied on for help in suppressing crime or in enforcing the excise laws.

Filling up of vacant posts.

323. Where the office of headman becomes vacant, it is the duty of the *tahsildar* to report without delay regarding the appointment of a successor. It is convenient to use a tabular form for such reports as information on certain points is required in every case and any special features of a particular case can be noted in the brief remarks explaining the recommendation of the *tahsildar*.

Appointment to vacant posts should not be delayed.

323 A. In view of the importance of the duties performed by village headmen it is imperative that when a post falls vacant it should be filled as quickly as possible. In cases where the deceased is to be succeeded by his heir under Land Revenue Rule 17 (ii), and no other candidate is forthcoming no reference need be made to the Collector as the appointment is sanctioned by the Assistant Collector, 1st grade. It is advisable however that the *sanad* of appointment should be signed by the Collector himself as this emphasizes the importance of the post and enhances the value of the *sanad*.

In cases of disputed succession the appointment is made by the Collector and subordinate officials have no direct responsibility with regard to the appointment other than the provision of such accurate information as will enable the Collector to come to a correct decision. In colony areas where the estates are chiefly or wholly owned by Government and hereditary claims carry but little weight the emoluments of *lambardars* are very considerable because of the large sums of land revenue and water rates to be collected. The value of these posts is still further enhanced in [illegible] by the allotment of a *lambardari* square or half square. It is therefore all the more desirable that such cases should not be delayed before they reach the Collector. In no circumstances should a greater delay than of one month be permitted to occur between the occurrence of the vacancy and the placing of all the papers before the Collector for his decision. The practice of subordinate officials sending repeatedly for all candidates, to examine them with regard to their claims and qualifications opens the door to opportunities for extortion. As soon as the vacancy occurs a report should be made by the *patwari* to the *tahsildar*. An early date should then be fixed by the *tahsildar* or *naib tahsildar* on which he will consider and investigate all the applications for the vacant post. He should, if possible arrange to hold the investigation in or near the estate concerned. The claimants should be given an opportunity of making any objections which they wish to make against the other claimants. A report should be called for from the local police station as to whether there are any written complaints against any of the candidates.

In no circumstances should the candidates be called upon to attend the police station for the investigation of their claims or their objections to other claimants The papers should then be forwarded to the Assistant Collector, 1st grade, who should record his opinion on the file from his own personal knowledge and from the material already collected He should not delay the case by sending for the claimants The papers should then be laid before the Collector within one month from the date of the occurrence of the vacancy The Collector should fix a date for the decision of the case, notify all the claimants and have the date proclaimed in the estate concerned Meanwhile, he should forward the papers to the Superintendent of Police for an expression of that officer's opinion That opinion should be given by the Superintendent of Police from the material already collected on the file, and from his personal knowledge of the claimants

Hereditary claims.

324 Except in estates chiefly or wholly owned by Government, much weight is attached to hereditary claims The eldest fit son of the late *lambardar* should ordinarily be appointed, and, when there is no son, the nearest collateral relation, according to the rule of primogeniture * Where there are no near collaterals the necessity of regarding hereditary claims disappears † The nearest heir may of course be set aside for any reason which would justify his removal from office if he were already headman ‡ Whether the claims of sons should be considered where a headman has been dismissed depends on circumstances If the ground of dismissal has been insolvency, the son will be subject to the same disqualification, if serious misconduct, it can rarely be wise to let a son succeed Even when he is innocent of any share in his father's misdeeds, he will generally be under his influence If the other reasons for excluding him seem insufficient the mere fact that he owns no land during his father's lifetime does not bar his appointment The property which he will inherit on his father's death may be taken into account as if it was already his own §

Votes must not be taken.

325 Even where hereditary claims have to be set aside, the votes of the landowners must not be taken as a means of deciding between rival candidates ||

Appointment of females.

326 Females are ordinarily ineligible But a woman who is sole owner of an estate may be appointed, and special reasons may occasionally exist in other cases for departing from the general rule ¶

Appointment when hereditary claims are set aside

327 Where hereditary claims do not exist, or have to be set aside, the considerations governing appointments are those mentioned in paragraph 312 **

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* Land Revenue Rule 17 (ii)

† Land Revenue Rule 17 (ii) (a)

‡ Land Revenue Rule 17 (ii) (c)

§ Land Revenue Rule 17 (ii) (b)

|| Land Revenue Rule 17 (iv)

¶ Land Revenue Rule 17 (ii) (d)

**Land Revenue Rule 17 (iii)

Claims of transferees

328 Where a headman is removed because his own holding or the whole estate or sub division of the estate for whose revenue he is responsible has on account of arrears been transferred to a solvent co-sharer, put under direct management, or leased to a farmer, the transferee, manager or farmer may, if the Deputy Commissioner thinks fit, be appointed *lambardar* * Where a headman loses office because he has mortgaged his holding, the mortgagee has usually no claim whatever to succeed him But he may at the Deputy Commissioner s discretion be allowed to do so where the revenue of the transferred holding is more than half of the whole revenue for the payment of which the late headman was, as such, responsible † The appointments referred to in this paragraph are not in their nature permanent When the temporary alienations from which they spring come to an end the transferee manager, farmer or mortgagee must lay down his office A fresh selection is then made by the Deputy Commissioner having regard to the grounds stated in paragraph 312 ‡

Reduction of headmen when number is excessive difficult

329 Reference has already been made to the inconvenience caused by the needless multiplication of headmen s posts at the first regular settlements Substantial men as heads of villages are among the most necessary instruments of a vigorous revenue and criminal administration The framing of a general scheme of reduction requires a large amount of local knowledge and a patient enquiry into the history of past appointments in every estate affected The files relating to the arrangements made at the first regular settlement and those dealing with subsequent appointments must be scrutinized, and the enquirer must obtain a clear idea of the constitution of each estate and must trace the origin of its sub divisions by examining the village administration paper (*wajib ul arz*)§ and genealogical tree (*shajra nasab*) || The time for making such an enquiry is hard to find in the throng of daily duties which besets a Deputy Commissioner Of course much of the information which he requires can be collected and put into shape for him by his officers but, even so the task is a heavy one

General schemes of reduction.

330 (1) When a district is brought under resettlement and the Settlement Officer finds that a reduction in the existing number of headmen is required in the interests of good administration in a considerable number of villages throughout the district or in any particular tahsils, he should in consultation with the Deputy Commissioner, prepare a scheme for effecting the necessary reductions gradually as vacancies occur

(2) The main positive ground for reduction of a *lambardari* in an estate is that the existing number of *lambardars* is excessive for the purposes of administrative efficiency while the existence and degree of

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* Land Revenue Rule 19 (i)

† Land Revenue Rule 19 (ii)

‡ Land Revenue Rule 19 (iii)

§ See paragraphs 295-96 of the Settlement Manual.

|| See Appendix VIII to the Settlement Manual

this excess will generally appear from the fact that the *pachotra* of the post which it is proposed to reduce is insignificant as a remuneration for the duties to be discharged It is difficult to lay down a standard figure for the whole province as much must depend on local conditions, but any individual *pachotra* less than Rs 20 per annum may as a rule, and in the absence of special circumstances, such as the existence of a ferry, encamping ground, &c , be regarded as insignificant The Commissioner should prescribe a suitable general standard for each district in his division, and in some cases it may be advisable to fix such standards for particular tahsil . It is not, however, by any means intended that every *lambardari* of which the *pachotra* is below the prescribed amount should necessarily be proposed for reduction apart from the other modifying considerations, of which some are noticed below On the other hand, where the *pachotra* is more than such amount, reduction may, in special cases be desirable nevertheless In calculating the *pachotra*, the amount received in respect of canal occupier's rates (paragraph 308) should not be neglected

(3) In determining what appointments should be retained and what abolished special attention should be paid to the composition of the village proprietary body, to the circumstances under which existing appointments became vested in certain families and to the present position and influence of these families No proposal for reduction can be fully satisfactory unless it takes sufficient account of the origin and history of the *lambardari* which is proposed for reduction For instance it is generally desirable to reduce the *lambardari* held by the junior branch of a family, rather than that held by the senior, and, in order to secure this it may be advisable to forego an otherwise suitable occasion for reduction and defer the latter step until the occurrence of a more appropriate vacancy

(4) In estates homogeneous as regards caste and tribes, reductions may properly be made more freely than in those where there is considerable diversity in these respects

(5) Reduction is not generally advisable where its effect will be to place any considerable number of proprietors of one religion, tribe or caste under a *lambardar* of another *patti* or sub division of a different religion etc

(6) As a rule it is better if the conditions permit to reduce the post of second *lambardar* of one *taraf*, *patti* or other sub division of an estate, rather than that of the sole *lambardar* of another *taraf*, etc

(7) The proposals of the Settlement Officer and the Deputy Commissioner should be embodied in a register in the form prescribed in paragraph 5 of Standing Order No 20—Village Headmen They should not be announced to the villagers nor will they be submitted to higher authority for sanction But, if there is any difference of opinion between the Settlement Officer and the Deputy Commissioner, the register, together with any connected

papers relating to any *lambardari* about which there is such disagreement, shall be forwarded to the Commissioner, who will decide whether such *lambardari* shall or shall not be retained in the register. The register will then be made over to the Deputy Commissioner, with whom it will remain.

(8) Whenever a vacancy occurs in a *lambardari* which has been recommended for reduction in the register prepared at settlement, the Deputy Commissioner will, subject to what is said in the next sentence, send up the case to the Commissioner, with an extract from the register and other papers required by Standing Order No. 20 in the case of casual proposals, whether he agrees with the recommendation made in the register or not. *But he should not, save in* very exceptional cases, send up cases in which the Settlement Officer's proposal would result in either the total number of *lambardars* in village being reduced to one or in the passing over of an heir in the direct line especially a minor. In the above contingencies the Financial Commissioner will not generally sanction a reduction. In other cases if the Deputy Commissioner thinks that effect should not be given to a reduction proposed in the scheme, in the special circumstances of the vacancy which has occurred he should submit a note of his reasons. If the Commissioner agrees that the occasion *is not appropriate for reduction the case may be disposed of by his* order but in all other cases a reference should be made to the Financial Commissioner and the procedure prescribed in paragraph 332 (3), (4) and (6) below will be applicable to them.

(9) A similar scheme may at any time for sufficient reason, be prepared by the Deputy Commissioner of a district not under settlement with the Financial Commissioner's previous approval.

(10) To ensure that the recommendations made in a scheme prepared by a Settlement Officer or Deputy Commissioner are not overlooked, Deputy Commissioners of districts in which a register has been prepared should require the *ahlmad* in charge of *lambardari* cases to note on all files of appointment to a vacant *lambardari* whether the vacant post has been recommended for reduction or not.

391. *Cancelled.*

Casual proposals for reduction.

332. (1) Casual proposals for a reduction in the number of headmen in an estate should be made by transmission of the files in original through the vernacular office together with an English abstract in the tabular form given in paragraph 6 of Financial Commissioner's Standing Order No. 20 and a skeleton abstract of the *shajra nasab*, showing the origin of each of the *pattis* or *tarafs* of the village, the revenue paid and the number of revenue payers in each and the relationship of the sub-division of the village the *lambardari* of which it is proposed to reduce, to the sub-division in which it is proposed to be absorbed as regards *lambardari* arrangements.

(2) The mere absence of a properly qualified hereditary successor to a vacant *lambardari*, though it may help to render the vacancy a suitable occasion for a reduction desirable on other grounds, is not alone and of itself an adequate ground for reduction. Much less

should reduction be proposed solely as a penalty for delinquencies of the last incumbent or of his family For such a case other appropriate measures are available The principles laid down in paragraph 330 should also be followed in making casual proposals for reduction

(3) When a Collector decides to propose a casual reduction, he shall intimate the fact to all the parties interested, *viz*, those whose names are entered in columns 5 and 6 of the form, and shall give them sufficient opportunity to bring to his notice any objections any of them may think fit to urge against the proposed reduction He shall cause his proceedings in this connection to be recorded in the vernacular files in detail, and shall also cause a detailed record to be made of such objections as are made to him Where the Collector is not himself the Deputy Commissioner of the district, he shall forward the file to the Deputy Commissioner, who shall return it with his opinion

(4) The Collector, after completing his proceedings, shall, in a case in which he considers reduction desirable, forward the papers prescribed above to the Commissioner for orders

(5) If the Commissioner is of opinion that a reduction is not appropriate, he shall record his order on the papers and return them to the Collector

(6) In other cases the Commissioner shall ordinarily retain the papers on his file till the expiry of two months from the date of the Collector's proposals and if any person has objected to the proposals he shall give the objector or objectors an opportunity of being heard, and shall record the objections urged by them He shall then complete the papers by recording an opinion in which he shall deal with the objections made to the proposal, and shall forward the papers to the Financial Commissioner for orders

Chief headmen.

333 A device which was formerly adopted in order to lessen the inconvenience caused by the excessive number of *lambardars* appointed at the first regular settlements was the institution of the office of chief headman (*ala lambardar*) in estates with several headmen It is generally admitted that the office of chief headman has served no useful end and later a large number of *ala lambardari* posts were reduced In 1909 the gradual abolition of the *ala lambardari* system in the districts in which it still obtains was ordered In future, vacancies will not be filled up and the *ala lambardari* of any man who is dismissed or is granted a *zaildari* or other *inam* will be resumed All existing *ala lambardars* will enjoy their present emoluments for life unless they become resumable as above In addition to his ordinary *pachotra* on the revenue of the sub-division which he represents as headman, the *ala lambardar* receives one per cent on the revenue of the whole estate* Orders to be carried out by a headman may, if thought desirable, be addressed to the chief headman and the latter is responsible that any orders issued are properly executed, and should carry them out himself if the headman responsible fails to do so†

* Land Revenue Rule 21

† Land Revenue Rule 23.

334 As already remarked *zaildars* represent the *chaudhris* of former times The existence and value of *chaudhris* was recognized at the time of the annexation of the Punjab but the measures taken to maintain the influence of men of this class were not sufficiently definite and practical and the position of *chaudhri* fell into decay The credit of revising it and of making it under another name a regular part of our administrative system belongs mainly to Mr Prinsep Almost everywhere in the Punjab and even in so democratic a tribe as the Jats there are men who stand head and shoulders above the ordinary headmen and whose influence extends not to one but to a number of villages If the proper men are found and the higher officials of the district know them well and use them wisely the work of administration is greatly assisted In his *zaildars* the Deputy Commissioner has a really means of getting into touch with his people of understanding them and getting them to understand him He will find many pieces of revenue and administrative work in which he can utilize the services of the *zaildars* and above all he has in them a powerful engine for the prevention and detection of crime

Zaildars

335 In the closing paragraphs of the Settlement Manual the measures connected with the first introduction of the *zaildari* agency into a district and the principles to be followed in grouping estates into *zails* are described

Formation of *zails*

336 The duties of the *zaildars* are set forth under seven heads in the *sanads** which they receive on appointment Their functions with regard to crime are within their larger spheres similar to those of headmen within their villages They are of very great importance but this is not the place to describe them Like *lambardars,* they are bound to aid in all sorts of revenue work and to report when Government buildings roads or boundary marks are out of repair When called on to do so they notify throughout their *zails* all Government order and use their personal influence to secure prompt compliance with them While abstaining from personal interference with the work of *lambardars* and *patwaris* it is their duty to see that they perform it properly and to inform the authorities of any failure to do so Forbidden to intermeddle of their own motion with cases pending in the law courts they can sometimes be employed with advantage as conciliators or in making preliminary enquiries into criminal complaints which appear to be probably the exaggerated reflections of petty village or family quarrels It is incumbent on *zaildars* to see that the headmen of the *zail* perform their duties properly † including of course the duty of paying in land revenue promptly But a discreet use should be made of the rule and *zaildars* ought not to be employed as if they were peons More especially they should never be ordered themselves to collect any sums due to Government

Duties of *zaildars*

* See Financial Commissioner's Standing Order No 21 paragraph 15 and Land Revenue Rule 9

† See Land Revenue Rule 9 (1)

Duty of attendance on officers visiting their *zails*

337 They must attend on Government officers who pass through their *zails*. This is a duty which is usually cheerfully performed and which should always be enforced. A Deputy Commissioner should try to see all his *zaildars* at least once a year in or near their *zails* and should encourage them to visit him from time to time at headquarters. If they find that the district officer talks freely to them on matters of local interest and encourages a frank expression of their views they are sure to value these opportunities of meeting him.

Percentage of land revenue allotted for remuneration of *zaildars* and *inamdars*

338 For the remuneration of *zaildars* a sum is set aside out of the land revenue amounting usually to 1 per cent. If *inamdars* as well as *zaildars*, are appointed, an additional ¼ per cent is allowed. This deduction is made from assigned, as well as from *khalsa*, revenue. In the case of assigned revenue, the highest contribution that can legally be taken is 1½ per cent. But the usual rate is 1¼ per cent as noted above, and more than ¼ per cent should not be devoted to the remuneration of *inamdars*.*

Methods of remuneration.

339 There are two ways of treating the sum devoted to the payment of *zaildars*. Each *zaildar* may receive 1 per cent of the land revenue of his own circle in the form of an *inam* paid out of the *jama* of some particular estate, generally that in which he himself is headman. Thus if the *zail* is assessed at Rs 24,900 the *inam* will be Rs 249 and the *zaildar* will keep back that sum when the revenue of his village is paid to Government. A better plan is to have *inams* arranged in different grades, the total being equal to 1 per cent of the land revenue of the *tahsil* or district.†

Advantages of grade system

340 The grade system gives the officer who fixes the limits of *zails* a much freer hand. It secures a fairer distribution when *zaildars* are first appointed, for it by no means follows that the *zail* which yields the biggest revenue is either the largest in area or the most troublesome to manage. Above all it enables the Deputy Commissioner to recognize good work by promoting deserving men on the occurrence of vacancies and now and then to punish slackness by reducing a *zaildar* to an inferior grade. In order to make the system effective, a *zaildar* appointed to fill a vacancy should always be put in the lowest grade. Even where the plan of graded *inams* is in force, the *zaildar* gets his pay in the shape of an *inam* out of the revenue of some village. The reason is that to Indian minds this seems a more honourable form of payment than the receipt of money from the *tahsil* treasury.

***Inam* first charge on revenue of village from which payable**

341 The *zaildar's inam* is a first charge on the revenue of the estate from which it is paid. Partial suspensions or remissions therefore do not affect the *zaildar* so long as the balance is large enough to cover his *inam*. If it is not, the deficiency should be made up to the *zaildar* from the revenue of some other village.‡

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* Section 28 (2) of Act XVII of 1887, Land Revenue Rules 3 and 11 and Financial Commissioner's Standing Order No 21.

† Land Revenue Rule 12.

‡ Punjab Government No 222, dated 11th November 1903.—Revenue Proceedings No 6 of November 1903.

Zaildar must as a rule be headman

342. In choosing a *zaildar* the field of selection is usually confined to the headmen. Occasionally the most able and influential man in a *zail* may be a landowner or Government tenant, perhaps a *jagirdar* or pensioned Indian officer who is not a *lambardar*. On a vacancy occurring such a man may be appointed if the Commissioner of the division has previously accepted him as a suitable candidate.* Care must be taken in putting forward names that a pushing new comer is not taken at his own valuation and allowed to thrust aside deserving men of the old *chaudhri* class.

Qualifications of candidates

343. It is true that it is a settled rule that in the appointment of *zaildars* regard shall not be had to any alleged hereditary claim. But as two of the chief matters to be considered are the candidate's personal influence and the degree in which he is by race or otherwise fitted to represent the majority of the agriculturists who reside in the *zail*, and the services rendered to the State by (the candidate) himself or by his family, it is obvious that questions of descent cannot be wholly excluded. Influence is very commonly hereditary in certain families and a man who has done nothing to forfeit the respect in which his ancestors have been held in the countryside may assuredly be allowed to urge in his own behalf the services they have rendered in the past as *chaudhris* and *zaildars*. The other points for consideration are—

(*a*) personal character and ability;

(*b*) extent of property in the *zail* and freedom from debt.†

Appointment of minor

344. It sometimes happens that the only suitable candidate is a minor. It may be found, especially in the hills, that to take the *zaildar* from any family but one involves a breaking up of old ties and a weakening of the means Government has of influencing the people. In such a case, if the representative of the family is a minor, one of two courses may be followed. The minor may be made *zaildar*, and a substitute may be appointed to discharge during his nonage the duties of the office, or if it is thought expedient the post may be left unfilled for a time.‡

Votes of headmen may be taken

345. To assist him in deciding between rival candidates the Deputy Commissioner may, if he thinks fit, have the votes of the headmen taken in his own presence at some place within the *zail*.§ This course though not suited for general application may be usefully and appropriately adopted where there are two or more candidates of nearly equal merit. It may also be followed in other cases of a special nature the circumstances of which appear to demand it. Such cases will probably increase in number with the lapse of time. Care, however, should be taken that the special procedure for taking votes is not so used as to encourage the idea that the post of *zaildar* is one dependent merely on popular favour.

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* Land Revenue Rule 4.

† Land Revenue Rule 5.

‡ Land Revenue Rule 7.

§ Financial Commissioner's Standing Order No. 21, paragraph 3.

and not rather a distinction received from the representative of Government, and in this connection it should be noted that the Deputy Commissioner is not bound to appoint the candidate who secures most votes

Inamdars

346 In many districts it has been thought expedient to supplement the *zaildari* agency by setting up a class of *inamdars* or *safedposhes* The services required of an *inamdar* are within his own sphere of the same type as those rendered by a *zaildar*,* but he receives a much smaller *inam*, and has no defined group of estates put under his charge He should clearly understand that he is bound to assist in every possible way the *zaildar* in whose *zail* he resides Occasionally services of a special kind are required by the condition on which the *inam* was originally granted The orders regarding appointment loss of office and succession are the same for *inamdars* and *zaildars* subject, in the case of the former, to any special conditions imposed by Government when the *inam* was first granted In some districts e g, Jhelum and Shahpur, there are no *zaildars* The *inamdars* called sometimes *ilaqadars* or *hall adars*, perform all the duties of *zaildars*

Punishment and dismissal of *zaildars* and *inamdars* and appointment of substitutes

347 The orders regulating the punishment and dismissal of *zaildars* and *inamdars*, and the appointment of substitutes to perform their duties, are practically identical with the corresponding orders in the case of headmen *A zaildar* must be deprived of office when—

(*a*) he ceases to be a landowner in the *zail*, or has mortgaged his holding and delivered possession to the mortgagee,

(*b*) his holding has been transferred, or its assessment annulled, on account of failure to pay land revenue,

(*c*) he is sentenced to imprisonment for one year or upwards †

Zail books

348 Wherever the *zaildari* agency exists, *zail* books should be maintained One volume should ordinarily be kept for each *tahsil*, and should contain in a pocket a map of the *tahsil* showing the *zails* concerned The book should be of foolscap size, and a map of each *zail* should be bound into the pocket in the proper place, together with statistical tables showing the information prescribed in the Financial Commissioner's Standing Order No 21 Whenever a new *zaildar* is appointed, an abstract of the order passed by the Collector should be copied into the *zail* book, giving briefly the names of all the candidates and the reasons why the Collector has selected or rejected them The results of appeals should similarly be shown

Zail books should be treated as strictly confidential, and kept in the personal custody of the Collector Copies of entries in the book should on no account be given either to the persons concerned or to

* Land Revenue Rules 10 and 11

† See Land Revenue Rules 6, 8 25 and 27 to 30

anyone else It will thus be possible for the Collector to record remarks in these books, expressing frankly his own opinion about the *zaildar* and various matters connected with the *zail* These remarks will be of the greatest use to his successors Ordinarily the Collector should arrange to record a note once a year about each *zaildar* and *inamdar* so that the record may be kept up to date

The books which are kept by the *zaildars* and *inamdars* are also official books and should be provided at Government expense They are not the property of the persons to whom they are given, and should be surrendered when those persons cease to hold the appointment for which the book has been granted to them The book should contain a map of the *zail* and the statistical information required by Financial Commissioner s Standing Order No 21 Where an *inamdar* has been made specially responsible for a portion of the *zail* this should be noted in his book An abstract of the order of appointment of the *zaildar* or *inamdar* should be copied into the book The Collector should insist on seeing all such books at least once a year, and should
book and
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egistrars of
Co operative Societies and Deputy Directors of Agriculture, and in horsebreeding circles District Remount Officers should be encouraged to make entries in these books

Since the book is not the property of the *zaildar* or *inamdar*, it should be clearly explained to him that he should not paste into it any *sanads* or certificates and that if he wishes to preserve remarks recorded about him by officials for his own use, he should have copies of these made since at any time he may have to surrender the official book to the Collector

BOOK III—Agricultural Statistics and Record of Rights in land

CHAPTER IX

HARVEST INSPECTIONS

349 It is one of the chief duties of a *patwari* to inspect the crops of each harvest field by field before they are cut This inspection is known as the *girdawari* It usually begins on 1st October for the *kharif*, and on 1st March for the *rabi*, harvest, but the Commissioner of the division can change these dates after consultation with the Director of Land Records, when the special circumstances of any district make others more suitable When for any reason the ripening of the crop is later than usual, the Deputy Commissioner may postpone the inspection for a period not exceeding fifteen days A few crops, chiefly melons and tobacco, are sown very late in the *rabi* season and are gathered some time after the other crops of that harvest are got in In villages where these extra rabi (*za id rabi*) crops are grown a separate inspection of them is made about the middle of April In some districts a crop inspection intermediate between the *kharif* and the *rabi girdawari* has been found necessary

Harvest inspections

350 The object of harvest inspections is to collect accurate information regarding—

Object of harvest inspections

(*a*) crops,

(*b*) changes in rights rents and possession of land

(*c*) amendments required in the village map

The first is indispensable for the assessment and collection of land revenue in a province where half the land is cultivated by the owners and the greater part of the remaining half by tenants paying rent in kind the second and third are aids to the maintenance of a true record of rights in the soil Only such changes need be noted in the harvest inspection register as must under the rules be embodied in the record of rights Others should be entered in the *patwari's* diary

351 *Cancelled*

352 It is essential to distinguish between crops which ripen and those which fail The latter are classed as "*kharaba*," the instruction regarding which is as follows —

Record of failed crops (*kharaba*) essential.

When a crop is sown and dries up, or is destroyed by calamity, it should be returned as *kharaba* Very careful attention must be given to partially failed crops that is crops of which the yield appears to be much below average When the actual yield as a whole of the crop grown in one *khasra* number is estimated by careful inspection to be not more than 75 per cent of the usual or average yield then a deduction from the whole area of the crop should be made, for example, an inferior field of wheat, area 4 kanals, may be returned as (wheat 3

kanals, *kharaba* 1 kanal), but this should only be done when the actual yield of the whole crop is estimated to be not more than 75 per cent of the average, and the *kharaba* allowed should be only as much as is necessary to raise the whole crop of the area returned as under crop to the average of an ordinary harvest The average yield is that adopted by the Settlement Officer at the previous settlement for the assessment circle in which the village is included, unless some other yield has been specially prescribed in the *dastur ul amal* or elsewhere The crops for which average yields are not fixed at settlement are generally unimportant The revenue officials concerned should judge for themselves what yield should be regarded as average in such cases Where two or more distinct crops are grown separately in different portions of one *hasra* number the above procedure should be applied separately to each of such distinct crops Deductions for *kharaba* made under this instruction should, unless some other special local scale has been prescribed by proper authority, be entered as far as is reasonably practicable in accordance with the following scale taking 16 annas as the average yield of a crop —

Yield more than 12 annas — No deduction
Yield more than 10 annas but not more than 12 annas deduct ¼ of the sown area
Yield more than 8 annas but not more than 10 annas deduct ⅜ of the sown area
Yield more than 6 annas but not more than 8 annas deduct ½ of the sown area
Yield more than 4 annas but not more than 6 annas deduct ⅝ of the sown area
Yield more than 2 annas but not more than 4 annas deduct ¾ of the sown area
Yield not more than 2 annas deduct whole sown area

Jowar which fails in the ear should be entered not as "jowar *kharaba*" but as "chari *pulhta*" The same details should be given for failed crops as for matured crops

Kharaba in canal colonies

353 In the lands irrigated by the Upper and Lower Chenab, Upper and Lower Jhelum and Lower Bari Doab canals, and in lands under fluctuating assessment in some tracts which have recently been resettled, new rules for the record of *kharaba* have been introduced * Tables showing the "standard" yields of the crops are prepared A crop which reaches that standard is called a sixteen anna crop Whether the standard is to represent an "average" crop or a "good" crop can hardly be said to have been yet decided When seed fails altogether to germinate or the crop is worse than a four anna one, the whole area is returned as *kharaba* When it is equal to, or better than a four anna, but worse than an eight anna crop, half is entered as *kharaba*, no deduction is allowed when it is equal to, or better than, an eight anna crop

Checking of *kharaba*

354 The entry of *kharaba* is a matter which requires both honesty and sound judgment on the part of the recorder, and this branch of the *patwari's* work should be carefully tested by all supervising officers But where the record has been made with care and is generally sound, it is well to refrain from making petty alterations here and there which affect but slightly the main result More than ordinary

* paragraph 26 of Financial Commissioner's Standing Order No 61 Canals

care is of course required in tracts under fluctuating assessment, where the amount of the demand at each harvest depends directly on the area of matured crop There are special rules as to the check to be exercised over the record of *kharaba* in such cases

355 The harvest inspection book is known as the *khasra girdawari* * In this register and in the record of rights uncultivated land is classified as *banjar jadid*, *banjar kadim*, and *ghair mumkin* The exact meaning of each of these terms is explained in the 267th paragraph of the Settlement Manual Land which is not under crop, but which has not lain fallow long enough (*i e*, for four harvests), to be described as *banjar jadid*, is called *khali* (empty)

The khasra girdwari Entries respecting uncultivated soils

356 By a refinement, which serves no very useful purpose, another class is recognized under the name of *taradaddi*, *i e*, under tillage This term is applied to a field which bears no crop belonging to the harvest under inspection but "has been ploughed for the next harvest, or is occupied by trees or plants, which will fruit in the coming harvest Examples are fields of cotton or cane in the *rabi* Cane which is planted about March, and occupies the ground for ten or eleven months, is treated for statistical purposes as a *kharif* crop Land is ploughed for cotton, another *kharif* staple, in the cold weather, and, where irrigation is available, the sowings also often take place before the *rabi* crops are cut Orchards which fruit in spring are shown as *taradaddi* in the *kharif*

Taradaddi

357 The terms *barani*, *sailab*, *abi*, *chahi*, *nahri*, by which cultivated fields, and the crops grown on them are distinguished are explained in the 259th paragraph of the Settlement Manual Where the moisture on which the crop depends is derived from a double source two of these terms may have to be combined, *e g*, *chahi nahri*, *chahi sailab* † Fields are classified according to their permanent characters and crops according to the actual facts of their cultivation in the harvest under inspection For example, *chahi* fields are often put under *barani* crops, and the converse sometimes happens ‡

Classification of crops and cultivated soils

358 As it is important to have a record of wells at work (*jari*) and out of use (*uftada*), a remark showing how the matter stands is entered against each field in which a well is situated When a new well has been sunk the fact is noted

Entries relating to wells

359 There are columns in the harvest inspection register in which to show the ownership and cultivating occupancy of every field Changes should be noted with care It is only through the *khasra girdawari* that alterations in tenancies at will find their way into the record of rights

Entries of owners and tenants

360 Where one field has been divided into two or the boundary of a field has from any cause undergone change, the *patwari* should make a rough measurement sufficient for the crop entries and put a red cross opposite the field number in the remarks column to remind him that a correction of the village map is required

Changes in fields

* See paragraph 2 of Financial Commissioner's Standing Order No 22
† See paragraphs 442 and 451 of the Settlement Manual.
‡ See paragraph 260 of the Settlement Manual.

The crop abstract (jinswar)

361 When all the entries for a village are finished, the totals for each crop must be made out and entered in the crop abstract (*jinswar*) of the estate before work is started in another village The uses of this very important statement will be described in a later chapter * A statement in the same form is the chief of the statistical returns included in the village revenue register or note book As soon as the crop abstract has been checked and signed by the field *kanungo*, the *patwari* copies the entries into the corresponding form in this register, and sends the original to the *tahsil* Promptitude in filing these returns is a matter of prime necessity, if any question regarding the suspension of any part of the land revenue demand is likely to arise The *kharif* statements should, if possible all reach the *tahsil* by the 1st of November, the *rabi* statements by the 1st of April, and the extra *rabi* statements by the 1st of June

Duty of kanungos as regards crop inspections

362 Revenue officials of all grades should be made to understand the importance of harvest inspections in land administration While the *girdawari* is going on field *kanungos* of course spend the whole of their time in checking it In the *girdawari* months the tours made by the district *kanungo* should be devoted to the same work In ordinary inspections the field *kanungo* accompanies the district *kanungo*, but during the *girdawari* the former has to accomplish so much in a short period that the latter is forbidden to call for his attendance †

Duty of tahsildars and naib tahsildars

363 The responsibility of *tahsildars* and *naib tahsildars* should be steadily enforced The standard to aim at is the inspection of every estate by one or other of these officers at each harvest before the crops are cut But at present this is a counsel of perfection Both officers cannot be in camp at once, and the harvests last for too short a time to admit of the results being observed and the records of them checked in every village It is far better that the *girdawari* in one or two estates in each circle should be thoroughly checked than that a nominal inspection of it should be made in every village The *tahsildar* and his deputy should so lay out their work that no part of their respective charges remains unvisited They should have a clear idea of the state of the crops in every assessment circle and in all important villages, and special attention should be given to estates in which suspension of the demand is likely to be required In bad seasons other work must give way to a thorough examination of the results of each harvest while it is still standing on the ground

Duty of superior revenue officials

364 The Revenue Assistant must be on tour throughout the *girdawari* months, and must then give most of his time to the checking of harvest inspection work The Deputy Commissioner should, if possible, help him by sending at the same time into camp

* See Chapter XVI of this manual paragraph 307 of the Settlement Manual and paragraph 7 of the Financial Commissioner s Standing Order No 22

† See paragraph 60 of Financial Commissioner s Standing Order No 19

some other member or members of the head quarters staff In times of drought especially, care must be taken to utilize Assistant and Extra Assistant Commissioners to the fullest extent compatible with the carrying out of such judicial and executive work as must be done at head quarters

Duty of Deputy Commissioner

365 The Deputy Commissioner's own part does not consist so much in checking a few entries in harvest inspection registers in the field, which is all he could possibly accomplish, as in laying out the work of his subordinates, and obtaining a good general idea of the results of the harvest in the different parts of his charge by viewing the standing crops and examining the crop returns of the villages

CHAPTER X

THE RECORD OF RIGHTS

866 *Cancelled*

Nature and contents of record of rights described in Settlement Manual

867 It is needless to describe here the nature and contents of a standing record of rights, which is usually drawn up at settlement, and of the subsequent revised editions of it, whose legal description is "annual records", though in the great majority of estates they are prepared only at intervals of four years The reader is supposed to be familiar with the fourteenth chapter of the Settlement Manual where these matters are fully discussed *

Duty of Deputy Commissioner to keep the record of rights up to date

868 The Settlement Officer hands over to the Deputy Commissioner a record of rights for each estate, the chief documents included in which are the village map or *shajra kishtwar* and the *jamabandi*, that is to say, a list of owners' and tenants holdings with a detail of the fields contained in each of the rent paid by each tenant and of the revenue due from each owner It is the business of the Deputy Commissioner to keep both of these up to date The provision contained in section 44 of the Land Revenue Act (XVII of 1887) attaching an equal presumption of truth to entries in standing records of rights and in annual records can only be justified by the great care taken in preparing them The instructions regarding the keeping of the village map up to date in the interval between two Settlements will be found in Part F of Financial Commissioner s Standing Order No 16

Law as to change of entries in record of rights explained in the Settlement Manual.

869 The law as to the circumstances under which the alteration of an existing standing record of rights or annual record is permissible is discussed in paragraphs 279—282 of the Settlement Manual, which should be read as part of this chapter

Revision of record when complete re measurement is ordered

870 We are not here concerned with the elaborate procedure for the revision of the *jamabandi*, which is carried out when a complete remeasurement of an estate is ordered, for such remeasurement, as a rule, only takes place in connection with a general re assessment of the land revenue Should, however, the remeasurement of an estate become necessary at another time, the procedure will be that laid down in the seventh appendix to the Settlement Manual

Forms of *jamabandi* and of list of revenue assignments

871 The forms of the *jamabandi* and of the list of revenue assignments and pensions which is included in the annual record, with instructions for their preparation, will be found in Financial Commissioner's Standing Order No 23

Classification of rights to be recorded.

872 The rights, of which the acquisition or loss gives rise to an alteration in the record of rights, may be classified as follows —

A	Rights of persons responsible to Government for land revenue	1 Landowners
		2 Mortgagees with possession.

*See paragraphs 276—297 of Settlement Manual, and appendices VII and VIII in the same volume.

B. Rights of persons responsible to landowners for rent.	3	Occupancy tenants
	4.	Leaseholders
	5	Tenants at-will.

"Leaseholders" in this connection means persons holding land as tenants for periods exceeding one year on written leases

373 The first three classes are legally bound to report to the *patwari* the right which they have acquired * If they fail to do so within three months from the date of acquisition they render themselves liable to a small fine † Assignees of land revenue and mortgagees without possession are also bound to report, but their rights are not of a kind which must be recorded in the body of the *jamabandi*, though certain notes regarding them are made in the "remarks column" of that document ‡ Redemptions of mortgages must be reported by the landowners whose lands have been redeemed For his knowledge of acquisition of title by leaseholders and tenants-at will the *patwari* must rely mainly on his own observations and on the result of enquiries as to the cultivating occupancy of land made at the harvest inspections § Among the things which he has to enter in his diary are the deaths of tenants, owners, village officers, pensioners, and revenue assignees, the ejectment, absconding, or settling of cultivators and rightholders, the relinquishment, change, or renewal of any tenure and the execution of any lease or agreement for cultivation Leaseholders and tenants at will are under no obligation to report to the *patwari*, but like all other persons whose rights are recorded in the *jamabandi* they are bound on demand to furnish him and any revenue officer engaged in revising it with accurate information ‖ To aid in recording mutations is one of the duties set forth in the memorandum given to village headmen on appointment, and the *lambardar* of the *patti* in which a mutation takes place is expected to attest by his seal or signature the report made on it by the *patwari* for the orders of the revenue officer

Reports of acquisitions of right to *patwari*.

374 Registrars and sub registrars send monthly to *tahsildars* particulars of all registered deeds which purport to transfer agricultural land The entries relating to each deed are made on a separate slip The office *kanungo* forwards these slips to the field *kanungo* of the circle, who distributes them to the *patwaris* concerned (see paragraph 6 of Financial Commissioner's Standing Order No 23)

Reports of registered deeds.

375 The *patwari* keeps up a register of mutations in which he records all acquisitions of rights of the kinds described in the preceding paragraphs, reported to him or which he "has reason

Register of mutations.

* Section 34 (1) of Act XVII of 1887 The sections mentioned in the notes to this chapter are sections of the Land Revenue Act, XVII of 1887.

† Section 39

‡ For the procedure as regards revenue assignments see paragraph 41 of Financial Commissioner's Standing Order No. 23 and the instructions appended thereto. For that relating to collateral mortgages, in which the landowner remains responsible for the payment of the land revenue, see paragraph 17 of that Standing Order

§ See paragraph 359 of this manual.

‖ Section 40.

to believe to have taken place," except those relating to land revenue assignments and undisputed mutations of tenants at will, "as soon as they are acted on" The last words do not occur in the Act, but in a rule framed under it * They were seemingly introduced to carry out the principle that the revenue officer who is revising a record of rights is concerned only with rights actually enjoyed by the persons claiming them † But a mere entry in the register cannot cause any alteration in the *jamabandi* without an order by a revenue officer, and for the sake of convenience the *patwari* enters all transfers by registered deed, of which he has received intimation under the procedure described in the last paragraph It is the duty of the revenue officer to refuse to sanction the mutation in such a case unless he is satisfied that the transfer has actually been completed ‡

Copy of mutation register filed with *jamabandi*

376 The form of the mutation register with instructions regarding the making of entries in it will be found in Financial Commissioner's Standing Order No 23, paragraph 1 It is kept up in duplicate, one copy being retained by the *patwari* and the other sent to the *tahsil* to be attached to the *jamabandi* as an authority for the new entries which it contains The *patwari's* report, the attestation of it by the field *kanungo*, and the order of the revenue officer are written only in the copy of the register to be filed with the *jamabandi* It is enough in the *patwari's* copy to show how the case was disposed of by entering the briefest possible abstract of the order, and this abstract should be written by the revenue officer with his own hand

377 *Cancelled*

Undisputed entries relating to tenants-at will

378 Most of the alterations in the *jamabandi* which the *patwari* can make of his own authority are undisputed mutations of tenants at will These are not entered at all in the register When the new *jamabandi* is being compiled they are taken straight from the *khasra girdawari* § Disputed changes of tenants at will are treated exactly like other mutations

Orders in mutation cases.

379 Orders in mutation cases can be passed by an Assistant Collector of either grade In practice nearly the whole of the work is disposed of by *tahsildars* and *naib tahsildars* In a country of small peasant proprietors the number of mutations to be attested annually is very large, and it is found necessary every year to appoint in some districts one or more extra *naib tahsildars* selected from the lists of accepted candidates and to invest them with the powers required for the disposal of business under chapter IV of the Land Revenue Act An appeal of course lies to the Collector against orders sanctioning or refusing mutation of names and the minute proportion which the number of such appeals bears to the number of mutations decided is evidence of the general satisfaction with the procedure

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*See Act XVII of 1887, section 34 (3) and Financial Commissioner's Standing Order No 23 paragraphs 2—13 of this manual

† See paragraph 369 of this manual

‡ See also paragraph 7 of Financial Commissioner's Standing Order No 23

§ See paragraph 359 of this manual.

380 It is clear from what has been just said that much of the mutation work is done by officers of small standing and little practical experience It is also true that the work has often to be carried out very rapidly, if the important object of keeping the *jamabandi* up to date is to be attained These are matters for reflection considering that each *jamabandi* now possesses the same authority as a record of rights drawn up at settlement * Fortunately the bulk of the work is exceedingly simple, there is no dispute as to facts, and no opening for doubt as to the order that should be passed But this is by no means true universally, and cases find their way into the mutation register which require both care and knowledge to decide correctly

Mutation work largely done by officers of no great standing or experience

381 When a Deputy Commissioner or a Revenue Assistant is inspecting a *tahsil*, the mutation work of the *tahsildar*, *naib-tahsildar*, and any extra *naib-tahsildar*, who may have been employed, should all be brought under review With the *jamabandi* of an estate lying open before him it is perfectly easy to pick out all the holdings in which changes have been made, for in support of them references to the mutation register are always given If the inspecting officer looks up each case in the register, he can soon satisfy himself as to the quality of the work of the reporting *patuari* and of the Assistant Collector. Having done so, he can turn back to the *jamabandi*, and see whether the changes ordered have been correctly made If this process is repeated for several estates in the circles of the *tahsildar* and *naib-tahsildar*, respectively, the Deputy Commissioner cannot fail to gain a considerable insight into the value of the work done by both these officers, and by some of the *patuaris* and *kanungos* under their control In examining mutation sheets special attention should be paid to orders passed in the absence of any of the parties No order should be passed affecting the share of any right holder who has not had an opportunity of appearing

Supervision of work by Deputy Commissioner and Revenue Assistant.

382 *Tahsildars* and *naib tahsildars* are expected to deal with revenue work, and especially with cases relating to *lambardars*, land revenue assignments partitions and mutations within the estates in which the cases have arisen The extent to which this obligation may be relaxed with the express permission of the Deputy Commissioner has been noted in paragraph 247

Mutations to be attested on the spot.

383 Every mutation order should show on the face of it the place where, and the date on which, it was passed, and that all the parties interested were present, or, if any one was absent, the way in which his evidence was obtained, or, if it was not obtained, what opportunity was given to him to be present No detailed record of the statements of parties and witnesses is required, but the order should note briefly the persons examined and the facts to which they deposed † The facts on which the order is based should be stated succinctly but clearly, and the order must show without any possibility of doubt whether the revenue officer accepts the new entry proposed by the

Contents of mutation orders.

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* See paragraph 363

† Land Revenue Rules 39, 40 and 44 (ii) and Tenancy Rules 7 and 12 (vi).

patwari as it stands or, if it requires amendment, exactly what the entry is which is to be made in the *jamabandi* The order must always show whether a share of the village *shamilat* has been included in the transfer

Attendance of parties.

384 A person who after receipt of notice by summons or proclamation to appear before a revenue officer at some place within the estate in which he ordinarily resides or cultivates land, fails to present himself becomes liable to a fine not exceeding Rs 50 * This provision can suitably be put in force when the default is wilful and contumacious But where a man's attendance would involve an amount of inconvenience which under all the circumstances could reasonably be regarded as excessive the proper plan is to take his evidence by commission

Arbitration.

385 Disputed cases may be referred to arbitration with or without the consent of the parties † but little use is made of this provision of the Act Where it is resorted to care must be taken to make the arbitrators understand that they must give a clear opinion as to the question whether the right claimed is actually enjoyed If the revenue officer cannot satisfy himself as regards the fact of possession and thinks it inexpedient to refer the point to arbitration he is required to make a summary enquiry as to title and to direct that the person who appears to have the best right to the property shall be put in possession of it and that his name shall be entered in the *jamabandi* ‡ The disappointed claimant must be referred to the civil courts for the establishment of any right he conceives himself to have §

Importance of prompt disposal of mutation work.

386 Mutations which have not been attested before the end of the agricultural year (15th J [illegible] the Direct or of Land Records are not [illegible] then under preparation This in most c[illegible] be brought to record till more than four years after they have taken place This untoward result can easily be avoided if *tahsildars* and *naib tahsildars* lay out their work properly and pay special attention to the estates for which *jamabandis* are about to be drawn up

Jamabandi.

387 The chief work of the *patwari* between the completion of the *rabi girdawari* and the beginning of the *kharif* harvest inspection is the compiling of the *jamabandi* It is drawn up in duplicate and ought to show by whom the land is held as owner or mortgagee at the end of the agricultural year and by whom it was cultivated in the *kharif* and *rabi* harvests of that year All payments of rent and revenue made up to the 15th of *Bhadon* which corresponds roughly to the end of August should be embodied in i One copy should be filed in the *tahsil* by the 7th of September the other being retained by the *patwari*

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* Section 149
† Section 127 (2) (*a*)
‡ Section 36 (2)
§ If he does not admit dispossession, his suit may be one for a declaration of his right under chapter VI of the Specific Relief Act, I of 1877 (section 42)

388 The Act contemplates the framing of an annual record of rights for each estate, but at the same time it allows the Financial Commissioner to direct its preparation at longer or shorter intervals* For many years after the Act was passed an attempt was made to compile a *jamabandi* annually for every village, the entries being curtailed to some extent for three consecutive years and given at full length in the fourth This plan of having abbreviated and detailed *jamabandis* caused useless trouble, and the present rule is to draw up a complete *jamabandi* for each estate or part of an estate once in four years † Lists are made showing what record work the *patwaris* are to do in each year If a *patwari* has four or more small villages in his circle, it is easy to distribute the work over the different years If the estates are fewer in number, one or more of them may have to be split up into two or more parts for this purpose Each part should, as far as possible consist of one or more complete sub divisions, (*pattis* or *tarafs*) In referring to the latest *jamabandi* of any particular village, the year to which the entries relate must be noted If this is not the last agricultural year, any changes which have occurred since the *jamabandi* was compiled can be ascertained by turning to the mutation register

Jamabandi of most estates prepared quadrennially

389 *Patwaris* must not be collected at the *tahsil* or anywhere else to write up *jamabandis* Every man must do the work in his own circle If it is not finished in time, and the only way to get it done is to have the *patwari* under constant observation he can be brought into the *tahsil* for a short time in the month of September On *patwaris* coming to the *tahsil* to file their *jamabandis* the office *kanungo* should detain them there for as short a period as possible *Girdawars* should on no account detain them there to help them in doing their own work Except in very special circumstances, no *patwari* should be detained at the *tahsil* for more than eight days

Jamabandis to be compiled by the patwari in his own circle

390 The field *kanungo's* check of the *jamabandis* while they are under preparation should be constant and systematic He is responsible that all the mutations ordered since the last *jamabandi* was drawn up, probably four years previously, are correctly incorporated He must attest all the entries holding by holding in the presence of the *zamindars* concerned ‡ This work can be carried on *pari passu* with the progress of the *patwari's* work At each of his visits the *kanungo* can collect the landowners and tenants whose holdings have been attested since his last visit, and read out the entries in their hearing

Attestation of jamabandi by field kanungo in village

391 In addition to the attestation work carried out in the villages, field *kanungos* spend September at the headquarters of the *tahsil* and devote their attention during that time to the checking of the *jamabandis* filed by the *patwaris* The check carried out at

Check at tahsil by field kanungo

* Section 33 (1)

† Detailed *jamabandis* should be prepared for all estates in the year preceding a general re-assessment

‡ This order does not apply to abbreviated *jamabandis* where such are still prepared.

the *tahsil* is chiefly directed to seeing that mutations have been properly incorporated, and that the statistical statements filed with the *jamabandi* are correct

Check by *tahsildar* and *naib tahsildar*

392 The *tahsildar* or *naib tahsildar* in charge of the circle in which the village lies shall make his final attestation on the spot and shall observe the following instructions —

(1) *At least 25 per cent of the khatauni holdings should be* read out on the spot and in the presence of the assembled right holders

(2) At least 25 per cent of the mutations attached to the *jamabandis* should be compared with the *khewats* concerned

(3) At least 25 per cent of the *khewat* holdings should be compared with the old *jamabandis*

(4) At least 25 per cent of the *khewat* entries in the original copy should be compared with the corresponding entries in the *patwari's* copy of the *jamabandi*

The number of the fields the *tatima shajras* of which have been attested, must be specified as also that of the unattested mutations entered before the 16th June or the date approved by the Director of Land Records of these there should be as few as possible

Notes at end of *jamabandi* should show amount of check exercised.

393 In the notes which they record at the end of the *jamabandi* the *kanungo* and the revenue officer must state exactly what they have done in the way of scrutiny and check and they should each include in their note a list of any amendments which they have made The revenue officer must include in his note a list of the holdings he has checked and should fill in two copies of the prescribed final attestation slip and attach one to each of the two copies of the *jamabandi* The degree in which the *jamabandis* last prepared are really up to date is a matter to be tested at *tahsil* inspections

Statistical returns based on *jamabandi*

394 The statistical returns which are based on the mutation register and *jamabandi* and which form appendices to the latter document will be dealt with in the next chapter

CHAPTER XI

AGRICULTURAL STATISTICS

395—397 *Cancelled*

398 For each of the estates in his circle the *patwari* keeps up a vernacular register or note book which contains the following ten tables :— *Village note book*

(1) Area statement or *milan rakba*

(2) *Kharif* crop statement or *jinswar*

(3) *Rabi* crop statement or *jinswar*

(4) Revenue account or *jama wasil baki*

(5) Statement of transfers of rights of owners and occupancy tenants

(5 A) Statement of sales and mortgages of ownership by classes of land

(6) *Statement of ownership, mortgages and revenue assignments*

(7) Statement of cultivating occupancy

(8) Statement of rent paid by tenants at will

(9) Statement of agricultural stock

The forms of these statements with detailed instructions for their preparation will be found in Financial Commissioner s Standing Order No 24

399 In the first six entries are made year by year, in the next three every fourth year when a new *jamabandi* of the estate is drawn up The return of agricultural stock is prepared quinquennially, and embodies the result of a special enumeration made by the *patwari* in all the villages in his circle every fifth year in the month of February. The originals of all these statements are sent to the *tahsil* as soon as the figures have been copied by the *patwari* in the corresponding forms in his village note-book The field *kanungo* is bound to help the *patwari* in compiling them, and is held personally responsible for their accuracy *Remarks in registers*

400 The *tahsil* office *kanungo* keeps up a note-book for each village containing the ten registers mentioned above and an eleventh relating to the assessment of the estate, the figures in which are compiled once for all at Settlement The other returns only differ from *those in the patwari s village note-book in so far as the headings of* the registers are printed both in English and in vernacular and the entries are made in English figures In the 11th or assessment statement the remarks of the settlement *tahsildar* or extra assistant settlement officer, or of both on the estate are recorded, and it is the duty of the *tahsildar* to supplement these by brief notes on the subse- *Office kanungo s copy of village note-book.*

quent history of the village in each year in which its *jamabandi* is drawn up,* and at other times, whenever any event occurs which seriously affects the well being of the estate Such a note should always be made when it becomes necessary to suspend the recovery of any part of the land revenue demand and subsequent recoveries or remissions, and the reasons justifying them, should also be recorded

Assessment circle and *tahsil* note books

401 The office *kanungo* also keeps up note books for each assessment circle and for the whole *tahsil* containing these ten registers There are blank pages at the end for the entry by the *tahsildar* and Revenue Assistant of general remarks applicable to the assessment circle or *tahsil* Field *kanungos* are required to report the prices of produce prevailing at harvest time at selected centres in each assessment circle for entry in the circle note books The centres and the dates of report have been separately determined for each district If any changes in these centres are subsequently found necessary for any cause, reports suggesting alterations will be submitted through the Director of Land Records to the Commissioner of the division by the Collector In the case of districts under settlement the Settlement Officer will similarly send proposals for changes through the Commissioner to the Financial Commissioner

The Financial Commissioner in districts under settlement and the Commissioner in districts not under settlement, will decide whether the changes proposed are necessary The prices should be those at which the produce of each harvest was actually disposed of The field *kanungos* should fix the rates after careful enquiry from *zamindars*, *sahukars*, &c , and his entries should be carefully checked by the *tahsildar* and Revenue Assistant The rates given by the field *kanungos* for each circle should be compared with each other and large discrepancies enquired into In the case of rice and cotton the prices of unhusked rice and unginned cotton " ' Desi and American," separately should be quoted

Importance of regular record of notes on villages by *tahsildars*

402 *Tahsildars* should be encouraged to record such remarks regularly The Deputy Commissioner and the Commissioner should discuss with him the contents of such notes at their *tahsil* inspections This is a very practical way of testing his knowledge of his *tahsil* and, provided the notes are good ones, of adding to one s own

Assessment circle *tahsil* and district note books kept up by district *kanungo*

403 The district *kanungo* keeps up for each assessment circle and *tahsil*, and for the district as a whole, registers in the same form as those maintained by office *kanungos* at *tahsils*

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* The *tahsildar s* remarks made in the year in which a *jamabandi* is prepared may be arranged under heads corresponding with those of statements 2 to 9, and refer to any noteworthy changes which have occurred in the four years which have elapsed since the preparation of the previous *jamabandi* Any further general remarks, which seem necessary, may be added.

English village note books drawn up at settlement

404 A copy of the English village note book as drawn up at the last settlement containing the remarks of the settlement officer on the estate and its assessment is kept at head quarters It is unnecessary to maintain the registers in this copy up to date When he wishes to study the agricultural statistics of the estate for the years during which the current settlement has been in force, the Deputy Commissioner can always send for the *tahsil* copy of the village note book The original idea was that the Deputy Commissioner should record his own remarks from time to time in the English note-book kept at head quarters But a more convenient place for recording them is the abstract village note book introduced in 1896, and it is now the rule for Settlement Officers also to enter their remarks in the abstract and not in the detailed note book

Abstract village note book

405 The abstract village note books contain for each estate the village inspection notes recorded by the settlement officer, his assessment statements and its small scale map and also a short statement in which the chief agricultural statistics are annually posted with quinquennial averages Spare leaves for the entry of remarks are appended to each sheet The abstracts for all the estates of a fairly large assessment circle can be brought together in a volume of moderate size All the figures in the abstract are taken straight from one or other of the first seven registers in the vernacular village note book It is an excellent plan to enter on a separate sheet at the end of the volume the totals for the assessment circle * The books are kept at the district office in the office of the district *kanungo*, and it is the business of the district *kanungo* to make the necessary entries in them year by year The question whether it is desirable to modify the ordinary form to suit local conditions is considered as each district comes under settlement

Use of abstract village note book.

406 When the Deputy Commissioner or any trained assistant commissioner goes on tour he should take with him the volumes of abstract village note books belonging to the tract to be visited, and should constantly refer to them But it must not be supposed that these abstracts supersede the detailed village note books When any close enquiry into the circumstances of an estate is required, the officer who makes it should have both the abstract and the note book before him If he is in camp he can easily consult the *patwari's* copy of the latter, and, if he wishes to see the assessment statistics embodied in statement II, and the remarks of the *tahsildar* and the revenue assistant, he can call for the office *kanungo's* copy

Entry of remarks by Deputy Commissioner

407 It is the duty of the Deputy Commissioner to enter remarks about any village in which circumstances arise that are worth recording † The ideal to aim at is the maintenance of a continuous revenue history of each estate to which the Deputy Commissioner of

*These totals should be taken straight from the assessment circle note-book.

†The twenty fifth chapter of the Settlement Manual may usefully be referred to in this connection

the day and the settlement officer of the future can refer with confidence. Clear and concise contemporary notes by an experienced revenue officer who has inspected an estate and enquired into its circumstances either as part of the ordinary routine of a tour or for any special reason, cannot fail to be valuable. Such notes may be written by the district officer himself, or by the Revenue Assistant, if he knows English, or by any assistant whom the Deputy Commissioner considers to possess sufficient experience.

Duties of Commissioner with reference to agricultural statistics

408. Revenue administration, as already remarked, depends very largely on the success with which the records to which this chapter relates are kept up and made use of, and there is no subject to which Commissioners ought to give more attention during their inspection tours.

CHAPTER XI

Riverain Law and Reassessment of Lands affected by River Action

409 Riverain law is concerned with the effect on rights in land of river action, which is usually qualified according to its nature by the terms erosion, accretion and avulsion

Meaning of riverain law

410 The two former are applied to the process by which land is sucked into the channel by the inset of a river at one place and fresh land exposed at another by its retirement The loss and gain thereby caused are respectively described as diluvion and alluvion.

Diluvion and alluvion

411 The word avulsion is an unhappy one to describe what takes place in the Punjab when part of an estate is transferred in a recognizable condition from the right to the left bank of the main channel of a river or *vice versa* There a large river, after it has penetrated some way from the hills, has usually a wide valley bounded on either side by old banks or by broken land with a strong upward slope These banks or slopes indicate the extreme limits of the wanderings of the stream The valley is seamed with channels, some now dry all the year round, except in heavy floods, some dry in the cold weather and running in the hot, and some in the case of the largest rivers, containing water throughout the year The main channel (*dhar kalan* in the vernacular of revenue officials), gradually gets silted up, and the force of the stream is diverted into some other bed, which in its turn becomes the principal one This shifting of the stream from one bed to another may leave much of the land between them unaffected Avulsion means not the movement of land but that of water

Avulsion

412 These various kinds of river action are all provided for in Regulation XI of 1825, which was the law on the subject with which the first administrators of the Punjab had been familiar in the North West Provinces The new province was not subject to the Bengal Regulations, but twenty three years after annexation Regulation XI of 1825 was expressely extended to it by the third section of the Punjab Laws Act, IV of 1872, and it is still in force *

Regulation XI of 1825.

413 The regulation makes custom the rule of decision in all "disputes relative to alluvial land " between private owners " whenever any clear and definite usage may have been immemorially estab lished † As an example of such a usage it cites the deep stream rule pure and simple, by which the main channel, wherever it may happen to be for the time being, forms the boundary between estates on oppos ite banks of a river, and property in land changes hands with every alteration in its course

Custom primary rule of decision.

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* As amended by section 4 of Punjab Act I of 1899, see paragraph 426

† Section 2 of Regulation XI of 1825

Rules of decision in absence of custom

414 In the absence of well established local usages,* two rules of decision are laid down—

(1) Land added gradually owing to the "recess" of a river is to be considered an increment of the property of the person to whose holding or estate it has become annexed,

(2) When a river—

(a) by a sudden change in its course breaks through or intersects an estate or

(b) by the violence of its stream separates a considerable piece of land from one estate and joins it to another, "without destroying the identity and preventing the recognition of the land so removed," the land is to remain the property of the original owner †

This may be called the deep stream rule modified to meet the case of avulsion

Islands

415 Islands thrown up in large and navigable rivers, the beds of which do not belong to private owners are to be at the disposal of Government if the channel between the island and the river bank is unfordable throughout the year If the channel is fordable, the island is to become an accession to the estate on the nearer of the two banks In the case of small rivers, the property in whose beds and the right of fishery have been recognized as belonging to a private owner, the island is also to belong to him ‡

Cases not governed by rules

416 In other cases not governed by the rules the courts are to be guided by the best evidence obtainable as to local custom, or, in default of such evidence, by general principles of equity and justice §

Probable absence of definite customs in the Punjab

417 The extent to which "clear and definite" and "immemorially established" local usages as to the effect of river action on property in land existed in the Punjab at the time of annexation seems open to doubt In some cases the usages recorded in the first settlements may have had a traditional basis, in others they no doubt represented what the headmen, assisted by the officials, considered ought to be enforced for the future

Deep stream rule pure and simple

418 The "deep stream rule" is expressed by various vernacular terms, *hadd sikandri, kach mach, darya banna, kishti banna, machhisim* It probably existed in its most rigid form in some parts of the province before 1845 Even where no such usage was of great antiquity, it would naturally spring up whenever the opposite banks of a river came to be held by rival chiefs each eager to support the claims of his own subjects It was recorded as the prevailing custom on the Beas where it forms the dividing line between the Gurdaspur and Hoshiarpur districts

* Section 3 of Regulation XI of 1825

† Section 4 (1) and (2) of Regulation XI of 1825

‡ Section 4 (3) and (4) of Regulation XI of 1825, see also paragraph 190 of Settlement Manual.

§ Section 4 (5) of Regulation XI of 1825.

419 As a rule regulating the ownership of land, it is so harsh in its working that it was universally condemned by British officers It may be partly on this account that in the vast majority of estates elsewhere in the Punjab, which are recorded as following the deep stream rule, it is declared to be subject to the qualification that the transfer of land in an identifiable state by avulsion from one bank of a river to another involves no change of ownership.

Deep stream rule modified to meet case of avulsion.

420 In some cases, for example on the upper Ravi in the Gurdaspur and Lahore districts and on part of the Jhelum in the Jhelum district the rule of fixed boundaries, known as *warpar,* prevails * It is the only rule worthy of civilized administration, but for its successful working it is necessary that the channel should have been mapped, and that the *patwaris* should be sufficiently skilful to relay boundaries obliterated by river action In most of the older settlements of districts separated by large streams surveys were not carried across their beds, and it is only in recent years that a really competent staff of *patwaris* has been formed

Rule of fixed boundaries

421 As long ago as 1867 Sir James Lyall proposed the adoption of fixed boundaries everywhere,† but the Financial Commissioner of the day regarded the proposal as impracticable because of the lack of skill in survey work among the subordinate revenue staff ‡ This objection has ceased to be valid, and the first Act passed by the Punjab Legislative Council§ was one enabling Government to order the substitution of fixed for varying boundaries in estates subject to river action It added six sections, 101-A to 101-F, to the Punjab Land Revenue Act, XVII of 1887, and made additions to section 158 of the same Act, and to the second and third sections of Regulation XI of 1825

Punjab Riverain Boundaries Act, I of 1899

422 The Act requires that the "boundary line shall be fixed with due regard to the history of the estates and the interest of the persons respectively owning them or possessing rights therein in such manner as may be just and equitable in the circumstances of each case "‖ The instructions issued by the Financial Commissioner regarding the carrying out of this provision of the Act provide¶ that "the Collector should in the first place try to get the villages concerned *to come to an amenable agreement* " Failing that, he "*must himself* fix a line . . . and, in doing so, should aim at putting each party in as good a position on the whole as he would have been, taking a long series of years together, if matters had been allowed to continue under the existing law or custom Among other things he would have to bear in mind that a bird in the hand is worth two in the bush. If,

Boundary how fixed.

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*See pages 1235, 1236 1240 and 1241 of selections from the records of the Financial Commissioner, new series No 15 (LXIX) This volume contains much information

[illegible] ies No 15

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[illegible]

¶ Punjab Government revenue proceedings—General—No 29 of January 1900.

for example, the river were making a dead set upon its right bank, which it was in a high degree likely would continue for some years, some allowance would have to be made for the fact that the riparian owners on the left bank would, by our taking action under the Act, be deprived of land which would be pretty certain to have accrued to them for some years if we had left matters alone On the other hand, it should be borne in mind that in all probability after some years the river would begin to work back again, and whatever was reasonable should be allowed *per contra* on this account in fixing the line The object should be to draw the line as far as possible so that neither party should feel that the other had obtained a very clear advantage by our intervention "

Effect of relaying of boundary on private property.

423 If the line adopted transfers land from one estate to another, the proprietary rights in the land are also transferred But, in the case of land which is " under cultivation, or reasonably fit for cultivation, or (which) yields any produce of substantial value," it is the duty of the Collector to pass an order suspending the transfer of private rights " unless and until the land ceases to be reasonably fit for cultivation or to yield any produce of substantial value " When any part of the land answers the latter description, the transfer becomes complete * The effect of action taken under the Act is to create a fixed boundary which will at once define the limits of estates, and ultimately in the majority of cases those of private property also

Immediate transfer of ownership on payment of compensation.

424 The landowners or any of the landowners of an estate in which has been included land whose transfer *qua* proprietary right has been suspended by order of the Collector, may apply to him to cancel his order and award compensation for the loss of their rights to the existing landowners It is within the Collector's discretion to accept or reject such an application †

Exclusion of jurisdiction of civil courts

425 By an addition to section 158 of the Land Revenue Act questions connected with proceedings for the determination of boundaries under Punjab Act I of 1899 are excluded from the jurisdiction of the civil courts ‡

Procedure

426 The boundary in each case is laid down by the Collector In practice, the work has been done by Settlement Officers or special officers invested with the powers of a Collector and working under the orders of the Financial Commissioner No boundary line is deemed to have been permanently fixed till it has been approved by the Financial Commissioner §

Amendment of Regulation XI of 1825

427. Additions made to sections 2 and 3 of Regulation XI of 1825 make that enactment of no effect after a fixed boundary has been laid down ||

428 *Cancelled*

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* Section 101 B (1) of the Punjab Land Revenue Act 1887

† Section 101 C of the Punjab Land Revenue Act 1887

‡ Section 158 (xviii) (a) of the Punjab Land Revenue Act 1887

§ Section 101 A (2) and (4) of the Punjab Land Revenue Act, 1887

|| Section 4 of Punjab Act I of 1899

429 In theory, there is no necessary connection between the boundaries of private property and those of jurisdiction In the case of the latter, three kinds of riverain boundaries may be distinguished—

Jurisdiction boundaries

(a) between districts in the same administration,

(b) between two administrations,

(c) between British administrations and Indian States

430 The recognition of the iniquity of the deep stream rule pure and simple as applied to the ownership of land was quite compatible with the emphatic assertion that it ought to be enforced as between district and district, and between the Punjab and Indian States* The reason urged was that the boundary of jurisdiction must be one that could be quickly determined† and easily recognized, conditions that were only satisfied by adopting as the line of demarcation the main channel for the time being

Official opinion formerly favoured deep stream rule pure and simple

431 A notification published in 1869 declared the deep stream of the Sutlej to be the boundary between adjoining districts along its whole course‡ No similar notification has been issued as regards any of the other rivers in the Punjab The tendency in most places probably was to apply the same rule to the determination of ownership and jurisdiction

Deep stream declared to be jurisdiction boundary along the Sutlej in 1869

432 The view that the deep stream rule pure and simple was the only suitable one for the determination of district boundaries gained force from the difficulties and delays besetting the decision of boundary disputes between the landowners of riverain estates situated in different districts But it overlooked the inconvenience land owners were bound to suffer from having to pay part of their revenue in one district and part in another, and from being at the beck and call of two sets of judicial, revenue and police officials The Punjab Government therefore in 1889 accepted a proposal made by Colonel Wace to declare by notification that the boundaries of districts separated by rivers followed the boundaries of ownership in the boundary villages, the deep stream being adopted where that was the practice followed for regulating proprietary rights, and the rule of fixed boundaries being observed where the estates on opposite banks defined their rights of ownership thereby§ To the notifications relating to the different rivers, schedules were annexed giving the names of the boundary estates on their right and left banks‖ When such a notification has

Assimilation of boundaries of ownership and jurisdiction

* S[illegible] and Cust on pages 1191, 1194 1195 [illegible] [illegible]icial Commissioner new series, No. 15 [illegible] deep-stream rule modified in case of [illegible]

† The difficulty arising from cases of doubtful jurisdiction has been lessened by section 16 of the Civil Procedure Code Act V of 1908

‡ Revenue department notification No 344 dated 6th March 1869

§ See pages 1313—1365 of selections from the records of the Financial Commissioner new series No 15

‖ The notifications issued up to September 1895 will be found on pages 106—118 of selections from the records of the Financial Commissioner new series, No. 19 There are later notifications—see for example Appendix II to Mr Diack's settlement report of Dera Ghazi Khan

been published, action taken under Punjab Act I of 1899 to lay down fixed boundaries for riverain estates also establishes permanent boundaries between the districts in which they are situated

Boundary between Punjab and United Provinces

433 The boundary along the course of the Jumna between the Punjab and the United Provinces is regulated by the deep stream rule pure and simple in the Panipat and Karnal *tahsils* of the Karnal district But the boundary of the Thanesar *tahsil* of Karnal, the Jagadhri *tahsil* of Ambala and the Gurgaon district are fixed

Boundary of Punjab and Kashmir

434 The boundary on the rivers Ravi and Jhelum between the Punjab and the Kashmir State is a fixed one

Advantages and defects of deep stream rule pure and simple

435 But elsewhere the reasons which were held to require the adoption of the deep stream rule pure and simple for the demarcation of district boundaries applied with double force to the boundaries of the province and Indian States Assuming that the plan of fixed boundaries was impracticable, it was the only rule which made it possible to settle the boundaries in which Indian States are concerned without endless trouble and interminable delays But, on the other hand, the hardships to which landowners were subjected by a divergence between the rules governing the limits of jurisdiction and private ownership were much increased when the land was transferred, not from one British district to another, but from the Punjab to an Indian State

Deep stream rule in extreme form given up

436 At first the deep stream rule in its extreme form prevailed In accordance with it, eight estates were transferred in 1857 from the Ferozepore district to the Kapurthala State But Lord Canning refused to accept Sir John Lawrence s suggestion that the rule adopted in that particular case should be accepted as a general one * In 1860 the Governor General in Council, in dealing with a case which concerned Bahawalpur, rejected a proposal to apply the deep stream rule pure and simple and declared that it was incorrect to assume that as between Sovereigns the only safe rule of practice is that the main river should be the boundary, irrespective of all other considerations The rule is such only in cases of alluvion and not in those of avulsion . . When a boundary river suddenly quits its bed and cuts for itself a new channel, it ceases to be the boundary, and the Government which ruled over the territory cut off by the change in the river continues to rule it This decision was approved by Her Majesty's Secretary of State,† and was declared to govern all cases which had occurred after the date, August 1860, at which it was given ‡

Fixed boundaries adopted in cases of Kapurthala and Bahawalpur

437 The boundaries of Indian States cannot be legally affected by Punjab Act I of 1899 But, since it was passed, a fixed boundary has been laid down by consent between British territory and Kapurthala along the course of the Beas and the Sutlej, and a similar

* See page 1219 of selections from the records of the Financial Commissioner new series No 15

† Despatch No 3 dated 16th January 1861 For the correspondence see pages 1249 1250 of the selections from the records of the Financial Commissioner new series No 15

‡ Financial Commissioner s Book circular No 1 of 1874

line has been demarcated between the Punjab and Bahawalpur along the Sutlej and the Indus Thus a constant source of trouble has been removed

Special revisions of assessment in riverain villages

438 The action of the seven great rivers of the Punjab and of the numerous torrents which issue from the hills renders the assets of the estates on their banks very unstable It is therefore imperative that some means should exist by which the land revenue demand of such villages can be revised from time to time It was ultimately found that in some large tracts the changes caused by the rivers were so frequent and so extreme that nothing would serve but the abandonment of a fixed assessment altogether in favour of a fluctuating one which involved the reassessment of the whole demand harvest by harvest * But elsewhere it has been possible to retain the fixed demand, providing for its annual revision as regards those parts only of villages which have been lost or have gained, been injured or been improved by river action This latter system prevailed throughout the province for many years after annexation, and it is still in force in a large part of it

439 441 *Cancelled.*

Existing orders

442 The following orders have been issued for general guidance in conformity with section 59 of the Land Revenue Act —

"(i) Where land of an estate paying land revenue is injured or improved by the action of water or sand, the land revenue due on the estate under the current assessment shall be reduced or increased in conformity with the instructions issued from time to time in this behalf by the Financial Commissioner

"(ii) And in every such case the distribution of the land revenue over the holdings of the estate shall be revised so as to similarly reduce or increase the sum payable in respect of the holding in which the land that has been injured or improved is situated" †

Supersession of general by special local rules

443 The defects in the old assessment rules are pointed out in the 455th paragraph of the Settlement Manual These defects have led to their supersession in many districts by special rules drawn up by Settlement Officers to suit the circumstances of each locality The main features of these new rules are described in the paragraph of the Settlement Manual cited above ‡ In the 26th of the Standing Orders issued in 1910, general rules under section 59 (c) of Act XVII of 1887 have been issued as instructions of the Financial Commissioner to be followed where no special rules have been sanctioned

Close supervision of alluvial assessments required

444 The special local rules not only prescribe rates of assessment, but also explain the procedure to be followed in bringing to record the loss and gain due to river action But, however perfect

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* See Chapter XXVII of the Settlement Manual

† Paragraph 455 of the Settlement Manual

‡ See also selections from the records of the Financial Commissioner, new series Nos 4 and 19

the system on paper, its working in practice must always remain a delicate matter, in which the work of the *tahsildar* and his subordinates must be closely supervised by the superior revenue staff of the district

General instructions

445 The measurements on which these yearly revisions of assessment must be based occupy a good deal of time, and must be started in riverain circles as soon as the *patwari* has finished the *kharif* crop inspection, written up the mutations which have come to light in the course of it and prepared the annual *bachh* papers * Every village in which any change of assessment is required must be inspected by the Deputy Commissioner or by one of his Assistant or Extra Assistant Commissioners Of course the bulk of this work falls to the Revenue Assistant, but, where it is heavy, part of it should be made over to some other member of the headquarters' staff The final order as to each estate must be passed by an Assistant Collector of the 1st grade and officers of a higher class †

Annual returns

446 An abstract statement of the changes due to alluvion and diluvion is sent to the Commissioner in the middle of April A divisional abstract compiled from these district returns is submitted to the Financial Commissioner The orders passed on it are the authority for making the necessary changes in the land revenue roll

* Paragraph 10 of Financial Commissioner's Standing Order No 22
† See Punjab Government notification No 81 R & A dated 1st March 1888

CHAPTER XIII

PARTITIONS

447 It is an essential feature of the village community, at least in its original form, that the proprietary body should possess part of their lands in common The village sites, the grazing lands over which the cattle wandered, and sometimes the wells from which the people drew their drinking water were held in joint ownership Often each sub division (*taraf*, *patti*, or *pana*) of the estate had also its own common land in addition to its share in the common land or *shamilat* of the whole community This feature of communal village property was reproduced by our revenue officers in those parts of the province in which the village system was forcibly engrafted on a tenure of a very different character *

Common land of village communities.

448 But, besides the large joint holdings in which all the land owners in an estate or a sub division of an estate have an interest, it constantly happens that many of the other holdings are jointly owned by several shareholders According to Indian ideas, land in north western India, at least wherever real village communities exist, belongs rather to the family than to the individual † What may be called family holdings were very common when our first records of rights were framed The tendency of our legal and revenue system has been to substitute individual for communal holdings But holdings of the latter type are still numerous And holdings owned by individuals are constantly reverting to the condition of joint holdings under the law of inheritance, which gives to each son, or, failing sons, to each male collateral in the same degree of relationship, an equal share in the land of a deceased proprietor A joint holding is also created whenever a landowner sells or mortgages with possession a share of his holding, instead of particular fields included in it

Other joint holdings

449 The increase of population and of the profits derived from agriculture leads in time to large portions of the common waste of the village or *patti* being broken up by individual shareholders, with the result that in the end a demand arises for its partition Family quarrels and the restraints and inconveniences which spring from common ownership constantly make those who are interested in other joint holdings anxious to divide the land

Tendency to divide joint holdings.

450 The custom of *vesh*, or the periodical redistribution of village or tribal lands, which is an interesting feature of primitive landowning tenures both in the East and West, is now nearly extinct in the Punjab But the Land Revenue Act provides for its enforcement where the custom still prevails ‡

Vesh.

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* See paragraph 166 of the Settlement Manual.

† See paragraph 1?0 (*d*) of the Settlement Manual and paragraph 12 of this book.

‡ See paragraph 158 of the Settlement Manual.

Private partitions.

451 Private partitions are frequently made, but there is always a risk that some shareholders will become dissatisfied and allege that the division was only one for convenience of cultivation, and was not intended to be of a permanent character Landowners therefore, especially when the area held in common is large and the shareholders numerous, usually apply to the revenue authorities to make the partition for them A private partition may also be affirmed after due enquiry by an Assistant Collector of the 1st grade on the application of any of the persons interested in it * Although no formal application has been lodged *the patwari is bound to record voluntary partitions* for orders in the mutation register as soon as they have been acted on In passing orders on such cases, care must be taken not to treat as partitions of proprietary right arrangements which the parties did not intend to be permanent Shareholders may be content for years to have in their cultivating possession less than their full share of a common holding without intending to give up any part of their rights of ownership If any of them objects to the record of the alleged partition, and the attesting officer considers the objection valid, he should refuse mutation of names and refer the party seeking it to proceedings under section 123 of the Land Revenue Act But, if he finds that the objection is vexatious or frivolous, and that a fair private partition has actually been carried out, he should record the objection and his proposed order disallowing it, and submit the proceedings for confirmation to the Revenue Assistant or any other Assistant Collector of the 1st grade authorized by the Deputy Commissioner to deal with these cases

Complete and incomplete partitions

452 Partitions are of two kinds complete and incomplete Where a complete partition is made, there is a total severance of rights and liabilities They have always been looked on with much disfavour in the Punjab, where they cannot be carried out without the express consent of the Financial Commissioner † Incomplete partitions do not affect the joint liability of the shareholders for the revenue of the divided holdings and still less do they operate to create new estates ‡ The former fact is not of much practical importance The officer who makes the partition is required to *distribute the revenue of the divided land over the new holdings* which have been created § If in the case of a complete partition a fraudulent or erroneous distribution takes place the local Government may, at any time within twelve years after the discovery of the mistake, order a fresh distribution For this purpose the best estimate possible must be made of the assets of each estate at the time of its formation ||

* Sections 123 and 136 of Act XVII of 1887 All references to sections in the notes to this chapter are to sections of the Land Revenue Act and Financial Commissioner's Standing Order No. 27

† Section 110 (1) —*Cf* paragraph 1 of Financial Commissioner's Book circular No XLVIII of 1860 and paragraphs 1 and 2 of chapter XIII of rules under Act XXXIII of 1871

‡ *Section 110 (1)*.

§ Section 120 (1)

|| Section 120 (3)

Property which must, and property which may, be excluded from partition

453 The village site, unless in the very rare case of its being assessed to land revenue, cannot be partitioned by proceedings under the Land Revenue Act * Even if it is assessed, the Assistant Collector may refuse partition,† and this discretionary power may properly be held to extend to the uncultivated land round a village which is used as standing ground for cattle or occupied by enclosures for fodder and manure Places of worship a
unless the parties record and
sion ‡ Any embankment, w
by the drainage of which a tank is filled, and any grazing land may be excluded from partition § In arid tracts, where the people depend on tanks for their own drinking water and for the watering of their cattle, it may be a matter of importance to keep the waste area which feeds a tank free from cultivation though the land hunger is now so great that many of the owners may clamour to have it divided If any of the joint owners afterwards encroaches on the reserved land he may be ejected from it on the application of any other co sharer ‖ In deciding whether to use the discretion given by section 112 (2) of the Act one must think not only of the wishes and interests of the landowners but also of the likelihood of the partition causing inconvenience to other residents of the village, as, for example the menials, who have been accustomed to use the common property When any of it is excluded from partition the Assistant Collector "may determine the extent and manner to and in which the co sharers and other persons interested therein may make use thereof and the proportion in which expenditure incurred thereon, and profits derived therefrom, respectively, are to be borne by, and divided among those persons or any of them" ¶

Holdings of occupancy tenants

454 A discretion is also left to revenue officers as regards holdings of occupancy tenants If tenants who have a joint right of occupancy in a holding wish to partition it any objection that the landlord may urge must be carefully considered and, if it is a reasonable one, partition may be absolutely disallowed ** Even when such a tenancy is divided the former co sharers do not except with the express consent of the landlord cease to be jointly liable for the rent of the original holding †† Again an occupancy tenant may well be unwilling to see his holding split up among three or four landlords to each of whom he must pay a separate rent The law therefore provides that such a severance of a tenancy may be a sufficient reason for disallowing a claim on the part of landowners for partition, so far as it would affect

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† Section 112 (2) (c)
‡ Section 112 (1)
§ Section 112 (2) (a) and (b)
‖ Section 150.
¶ Section 119
** Section 112 (4)
†† Section 110 (2)

the holding of the tenant, unless the latter gives his assent to the proposals *

Who may apply for partition

455 Any joint owner and any joint tenant who has a right of occupancy in his holding may apply for partition if—

(a) his share is entered in the last *jamabandi*, or

(b) his right to a share has been established by decree of court, or

(c) his title has been admitted in writing by all persons interested in the admission or denial thereof †

The mere fact that a man is a landowner as defined in section 3 (2) of the Land Revenue Act does not entitle him to apply unless he fulfils one or other of the above three conditions ‡

Conduct of partition cases

456 Partition cases are decided by revenue officers of a class not below that of Assistant Collector of the 1st grade, and usually by the Revenue Assistant No officer who is not himself empowered to settle the case should receive an application for partition A qualified officer to whom an application has been presented can either conduct the whole enquiry himself or refer it for report to an Assistant Collector of the 2nd grade, that is as a rule to a *tahsildar* or *naib tahsildar* The latter course is generally the best to follow But the officer before whom the case has been instituted is responsible for its proper conduct throughout and should exercise close supervision over the proceedings of the official to whom he has referred it for investigation An Assistant Collector who in a disputed partition case is content to pass orders on reports received from the *tahsildar* without ever having the parties before himself and without if need be inspecting the land to be divided certainly fails in his duty

Common defects in partition procedure

457 No branch of revenue work used in former days to be worse done than partition cases Scandalous delays were allowed to occur No proper care was taken to lay down clearly the mode of partition or to define accurately the limits of the land assigned to each share holder or to point these out on the spot to the parties interested Years after an elaborate partition had been made on paper it was not infrequently found that the existing facts of possession in no way agreed with the allotments shown in the file Matters have improved of late years but much watchfulness on the part of the Revenue Assistant and the Deputy Commissioner is required to prevent undue delays, and to secure that partitions are fairly carried out and given effect to fully and promptly The points on which it is most essential to insist are that the cases are dealt with by the investigating officer as far as possible in or near the village where the land is situated,§ that the proposed mode of partition is clearly explained by him and that the orders passed by the Revenue Assistant are distinct and enter

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* Section 112 (3)

† [illegible]

‡ [illegible]

§ [illegible]

into sufficient detail to enable the actual division to be carried out without any opportunity arising for further dispute In cases in which many shareholders are concerned, the first hearing should invariably be in or near the village where the land is situated A visit to the village is equally necessary after the partition papers have been prepared and objections to the partition are to be heard All the sharers in the common land of a large village cannot be expected to attend at the *tahsil* on the same day, nor can objections against the partition be decided without seeing the plots allotted to each shareholder.

How delay may be prevented

458 The failure to ascertain from the first what is the actual contention of those who oppose the partition is a fruitful cause of delays and wrong decisions An officer who begins by carefully examining the parties on the spot is not likely to fall into this mistake That complicated partition cases should remain pending for a considerable time is of course inevitable The best way to check any tendency to procrastination is for the Deputy Commissioner, from time to time, to examine a few of the pending files in each *tahsil*

Care required to make equitable division

459 Officers are too ready to pass orders of a general character, for example, " that division shall be made having regard to the character of the land (*ba lihaz nakis wa kamil*)" If land described by the same name in the *jamabandi* really differs much in value, a further classification is a necessary preliminary to a first decision and it should be made before the mode of partition is determined On the other [illegible] exact share of each [illegible] shareholder may have [illegible] ll or digging an irri[illegible] embanking it He ought, as far as possible, to be allowed to retain the land, whose present value is due to his enterprise A suitable arrangement often is to allot to him the land he has improved, giving to his co sharers a larger area of unimproved land In this connection efforts should be made to persuade co sharers to abstain from insisting on an exact application of the rule of equal proportions where this would result in the formation of an excessive number of small scattered plots or fields It should be pointed out that such a division of a holding has many disadvantages from the point of view of agricultural efficiency It entails waste of the cultivator's time and labour and adds to the work of his bullocks by multiplying journeys to and from his land It causes waste of water, and even waterlogging, by involving the use of unnecessarily long, tortuous or badly aligned water-courses from wells or canals It makes the sinking of wells, drainage, levelling and other agricultural improvements more difficult, while small fields may often be an obstacle to the employment of improved agricultural implements and machinery Should the parties nevertheless desire the application of the rule of equal proportions of each class of land, the revenue officer has discretion, under section 118 of the Land Revenue Act, to refuse compliance if he thinks that the circumstances of the case render that rule inappropriate, and he may instead authorize duly specified deviations from it

General discretion to refuse partition

460 Certain special cases in which a revenue officer has a discretionary power to refuse partition have been referred to above But, in addition, a general discretion to reject applications is given by section 115 of the Act, which provides that "after examining such of the co sharers and other persons as may be present . . . . the revenue officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal" This discretion should not be exercised in an arbitrary way Ordinarily the ground for refusal should be one of those already mentioned in the 453rd and 454th paragraphs But the Assistant Collector is not debarred from rejecting an application on other grounds if a sufficient case is made out by the opponents of partition If, for example, he finds that many of the new holdings which would be created by the partition of the common land of a village would be so minute as to be useless to the right holders to whom they would be allotted, he may reasonably refuse to sanction a holding by holding partition, and either reject the application entirely or order a *pattiwar* partition, each *patti* being given separate possession of its share in the common land of the estate

Claims by widows

461 The claims of widows for partition are often strongly opposed by the other co sharers Among agricultural tribes in the Punjab a widow who has no sons inherits, as a rule, a life interest in her deceased husband's land Her right is indisputable, but it is one that is viewed with great jealousy by the ultimate heirs Where her property consists of a share in a joint holding, they are very loath to allow her separate possession from a fear, often well founded, that she will manage it badly, and probably in the end attempt to alienate it At the same time, so long as the holding is undivided, the widow often finds it difficult to obtain her fair share of the produce If the records of tribal

Questions of title

462 The officer to whom an application has been sent for report sometimes finds himself confronted at the outset by an objection which disputes the title of the applicant to ask for partition For example, the respondent may deny the correctness of the record of rights, or he may admit its correctness, but assert that the applicant is not in possession of his share, and is therefore not entitled to claim partition at all, or is not entitled to do so till he has had a settlement of accounts with the respondent In such cases all that the *tahsildar* can do is to record clearly what the points in issue are, and return the case to the officer who is empowered to dispose of it After hearing the parties, the latter must determine whether he will refer one or other

* Revenue Judgment No 11, Punjab Record of October 1895 Compare the remarks of Mr T. Gordon Walker on pages 78 79 of Punjab Customary Law, volume V, Ludhiana.

of them to a suit in a civil court, or himself, as a court decide the question of title raised * On the one hand, the Assistant Collector may find that the applicant, believing that the partition proceeding will give him an advantage over the opposite party, has asked for partition in order to evade direct resort to the civil court regarding a question of title which he knows to be disputed In that case he should file the proceedings with leave to either party to apply to have them reopened on showing that the point at issue has been decided by a competent civil court But if it appears that the applicant is acting in a straightforward manner, the revenue officer should invariably, unless there is some special reason to the contrary, deal with the dispute himself. Generally speaking, where landowners are concerned, the question at issue will be one over which a civil court has jurisdiction If it is so, the procedure of the revenue officer must exactly follow that applicable to the trial of an original suit in a civil court, and the decree will, for purposes of appeal be treated as if it had been passed by a Subordinate Judge If however the question is one over which a revenue court has jurisdiction, the revenue officer must proceed as a revenue court † The neglect of these provisions by revenue officers often causes much trouble

Appeals. 463 The law regarding appeals in partition cases is a little complicated, and forms a partial exception to the general rule that appeals from an Assistant Collector of any grade lie to the Collector ‡ An order under section 115 of the Land Revenue Act absolutely disallowing a partition is appealable to the Collector But, if he does not reject the application *ab initio*, the Assistant Collector must proceed to ascertain the questions in dispute, distinguishing between—

(*a*) questions as to title in the property, and

(*b*) questions as to the property to be divided, or the mode of making the partition §

The procedure in cases in which a question of title has to be settled has been explained in the preceding paragraph If the Assistant Collector has acted as a civil court, an appeal will lie to the District Judge if as a revenue court, to the Collector But appeals from any order he may pass "as to the property to be divided or the mode of making a partition are heard by the Commissioner ||

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* Section 117 (1)
† Section 117 (2)
‡ See paragraph 262 of this manual
§ Section 116
|| Section 118 (1) and (2)

CHAPTER XIV.

Acquisition of Land for Public Purposes

Advantages and disadvantages of acquisition by private agreement.

464 Land which is required for public purposes must be taken up through the Collector if the provisions for compulsory acquisition contained in Act I of 1894 are put in force * But engineers or other officers of Government, who have obtained permission from the head of their own department, can endeavour to arrange for the purchase of land by private agreement, and in such cases Deputy Commissioners ought to supply them with preliminary estimates of value just as they would do in a case in which it was proposed to make use of the Act But they must not themselves undertake private negotiations with landowners on behalf of other departments without the consent of the Financial Commissioner The advantage of a voluntary agreement is that the addition of 15 per cent to the market price, which the Act allows as a solatium for the compulsory nature of the transaction,† is saved. On the other hand, under the statutory procedure there is perhaps less risk of an extravagant valuation, and compliance with the necessary formalities ensure the vesting of the land "absolutely in the Government free of all encumbrance "‡ Where there is the faintest doubt regarding the title of the person in possession, or where there is any reason to fear that the land may be encumbered to an unknown extent, private negotiation is out of the question But with the accurate record of rights now maintained in the Punjab there is often no danger, at least in localities where the land tenure is of a simple nature, of latent defects of title Where this is the case resort may be had to purchase by private agreement if it is likely to result in any appreciable saving of time or money.

Plan and preliminary estimate of cost.

465 Whatever be the procedure proposed, the first step to be taken is the preparation of a proper plan of the land by an officer of the department which wishes to acquire it Ordinarily the landowners will raise no objection to his entering on their land, and doing whatever is necessary for that purpose The Act however, did not allow for an opportunity to be given to a person whose lands were to be acquired to protest that the purpose for whicl [illegible] as not in fact a public purpose To [illegible] ct, No XXXVIII of 1923, was passe[illegible] a preliminary notification under section 4 is now essential in every case and provision is made for the lodgment of objections against any proposed acquisition within a period of 30 days § But, if they do, a notification stating that the land is likely to be required for public purposes must be issued in the Gazette.‖ When this has appeared, and

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* Section 7 All references to sections in this chapter are to sections of Act I of 1894

† Section 23 (2)

‡ Section 16

§ See section 5 A As to rules of procedure, see paragraphs 17, 40 and 105 of Financial Commissioner's Standing Order No 28

‖ Section 4 (1)

the Deputy Commissioner has published it locally, any officer authorized by Government may enter on the land and survey it * If any damage is done to the land or the crops in the process, he must offer compensation to the landowners If it is not accepted, he must refer them to the Deputy Commissioner, whose decision is final † Having made his plan he must obtain from the Deputy Commissioner data for a preliminary estimate of the cost of acquiring the land All that the district officer is expected to give at this stage is the ordinary rate per acre which land of the description fetches in the neighbourhood, and a rough valuation of trees, buildings, etcetra

Procedure in cases of purchase, by private agreement.

466 The procedure to be followed after the preliminary estimate has been sanctioned by competent authority in cases in which purchase by private agreement is preferred to compulsory acquisition is laid down in paragraphs 21—27 of Financial Commissioner s Standing Order No 28

Preliminary action in case of compulsory acquisition.

467 If the better course appears to be to proceed under the Act a notification is published in the Gazette stating that the land is required for a public purpose and directing the Deputy Commissioner to take orders for its acquisition ‡ If the area is very large, a special officer is usually invested with the necessary powers§ and employed instead of the Deputy Commissioner

Nature of enquiry made by Collector.

468 The enquiry which the Collector has to make in these cases relates to three points, each of which must be dealt with in his award He must determine—

(*a*) the true area of the land of each class,

(*b*) the amount of compensation due, and

(*c*) the apportionment of the compensation among the persons interested ‖

Demarcation of land.

469 The first step is to have the land marked out and measured through the *tahsildar* The existence of small discrepancies between the areas and the descriptions of land as found by the *tahsildar* and as stated in the notification is no reason for staying proceedings

Notice to parties interested.

470 A general notice is next given to all persons interested¶ in the land to appear before the Collector on a certain date, and to state the nature of their respective interests, and the amount of compensation which they claim **

Tahsildar's report.

471 Before the time fixed for the hearing, the Collector should receive from the *tahsildar* a *khasra* or field register and a statement

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* Section 4 (2) The officer may measure, survey, dig so far as necessary, and mark boundaries

† Section 5

‡ Section 6

§ Section 3 (c) In the remainder of this chapter the word Collector means either the Collector of the district or a special officer invested with the functions of a Collector under the Act

‖ Section 11

¶ For the definition of "persons interested" see section 3 (*b*) In the rest of this chapter such persons will usually be described as right-holders.

** Section 9

of holdings In these statements particulars are given as to the areas, the rent, and the revenue of the land, and the trees, crops, wells, and buildings on it, and the estimated value of the last four items The *tahsildar* also furnishes a report giving the chief data from which the market value of the land can be deduced, and his own opinion as to its proper price The data of course include figures relating to any recent purchases of land by Government or private persons in the same village or neighbourhood Information regarding the latter can be obtained from the mutation registers and from the books in the office of the sub-registrar, who is usually either the *tahsildar* himself or a non official working at the headquarters of the *tahsil* In using the prices stated in deeds of sale it must be remembered that they are often exaggerated * The *tahsildar* must not call for reports from *patwaris* or *kanungos* as to the value of the land In forming his own opinion, he must take into account the matters which the Act requires the Collector to consider in fixing the amount of compensation, and must disregard those which it directs the Collector to disregard †

Representations by departmental officer

472 It is important that the local officer who represents the department for which the land is being acquired should have ample opportunity to make any representation he thinks fit as to its market value The instructions in paragraphs 38 39 of Financial Commissioner Standing Order No 28 provide for this Any representation he may make personally or by agent or in writing should receive careful consideration But the Collector must avoid all correspondence with him on the subject of the award, and must not inform him of the compensation he proposes to assess until the award has been pronounced.

Preparation for hearing of case

473 Before the hearing of the case the Collector ought to have studied the *tahsildar's* report and to have estimated the compensation which appears to be suitable The *tahsildar's* data as to the prices paid for other land required by Government can be checked by referring to the register of lands taken up for public purposes maintained in every district office If the last settlement of the district is at all recent, valuable information as to the market value of land of different kinds is sure to be found in the *tahsil* assessment report

Examination of parties

474 A little trouble taken before the right holders appear before him will put the Collector in a position to deal promptly with their objections, and by questioning them to clear up any points which the *tahsildar's* report has left in doubt A brief enquiry regarding any claims for compensation which they present will usually be enough to show in what respects, if any, his own preliminary estimate of compensation requires to be modified

Award

475 The next step is to record and announce the award All possible care *must be taken in framing it*, for, as far as Government is concerned, it cannot be questioned The record will as a rule enable the Collector to determine at once the first matter for decision, namely, the true area of the land of each class to be acquired

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* See paragraph 380 of the Settlement Manual

† See paragraphs 476—479 *infra*

Market value of land

476 In deciding the next point, the amount of compensation due, he has in the first place to settle what the market value of the land is and to add to it 15 per cent on account of compulsory acquisition * If he finds the amount to be much in excess of the preliminary estimate referred to in paragraph 465 he should refrain from making an award and ask for further instructions

Consequential damages

477 He must also consider whether the persons interested in the land to be taken up have any claim for consequential damages, which fall chiefly under two heads—

(a) loss of standing crops or trees,† and

(b) damage to other land of the right holder by the taking up of the land required ‡

As the owner will be relieved of the obligation to pay land revenue and cesses the demand of the harvest under these heads should be deducted from any compensation awarded for crops

Damage to other land of right holder

478 Under the second head difficult questions arise If, for example a canal is carried through the heart of a village the fields on one side or the other are cut off from the homestead To reach land which in a direct line is only distant a few hundred yards may involve the taking of ploughs and cattle three or four miles round It is not always feasible to build a second *abadi* across the canal. The land may all be cultivated, or none of it may be common property Again if an embanked road or a railway or a canal distributary is carried through the fields attached to a well and the area which it can command is thereby diminished, the capital sunk in its construction may cease to yield any return to the landowner It is difficult for the people who suffer to believe that a slight deviation from a straight line, which would have saved themselves much trouble, could not have been made No wise man will do anything to foster the idea that the administration works with the unsympathetic rigour of a piece of machinery For this reason and to avoid the expense of consequential damages Government has made consulting engineers and the local revenue officers responsible that in acquiring land for railways the fullest consideration is given to the convenience of the landowners, and has ordered slight alterations in the alignment to be made where this is feasible if annoyance to the people can be thereby obviated § Strict *orders exist in the Irrigation Department forbidding the excavation* of canal water courses through land belonging to a well "until a suitable pipe culvert, or syphon is completed and the cultivator's water course is connected at both ends with the same at Government cost" ‖ This principle applies equally to other public works, and Deputy Commissioner is quite justified in asking the departmental officer whether a

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* Section 23 (1) first sub head and (2) Fifteen per cent is not added to the amount, if any awarded on account of consequential damages, see also paragraph 54 of Financial Commissioner's Standing Order No 28

† Section 23 (1) second sub-head.

‡ Section 23 (1) third and fourth sub heads

§ Government of India circular No IV Railway dated 4th September 189?

‖ Irrigation Department circular No 46-I dated 6th January 1904

modification of the alignment, which would be convenient to the proprietors, would diminish the usefulness or seriously increase the cost of the work. It is the more desirable to avoid claims for consequential damages where possible because it is a matter of great difficulty to calculate the compensation which is fairly due.*

Matters to be excluded from consideration in estimating market value

479. In estimating market value, the condition of the land as it was at the time the notification was issued declaring it to be required for a public purpose must alone be taken into account.† The urgency of the need Government has to get the land, and the reluctance of the owner to part with it, have nothing to do with the question.‡ The latter, whether it is great or small, must be taken as paid for by the grant of fifteen per cent over and above the market value. The fact that the use to which the land is to be put will increase the value of other land belonging to the right holder is quite immaterial.§ And so is any damage he may sustain which, if caused by a private person, would not be a ground for a civil action.‖

480. *Cancelled.*

Compensation other than in money

481. Persons who are being deprived of their land for public purposes would often prefer to take other land in exchange rather than money compensation. The Act allows an arrangement of the sort to be made with the sanction of the local Government. But in the first instance the compensation must be assessed by the Collector in money, and no one can be compelled to take land instead of cash. Another form in which compensation may be given with the approval of the local Government is the reduction or remission of the land revenue payable on the remainder of the right holder's land.¶ An objection to this plan is that it introduces some complications into the revenue accounts, and it is not desirable that it should be largely adopted.

Apportionment of compensation.

482. If the right holders agree among themselves as to the division of the compensation, their agreement must be accepted and embodied in the award.** Where the right holders are of different classes, *e.g.*, superior owners, inferior owners, or occupancy tenants, the Collector will usually have to apportion it himself. To do so is not always easy. The share of an occupancy tenant would properly be measured by the proportion between the price at which he could sell his tenant right, and that at which the landowner could sell the land, if unencumbered by any subordinate title. Another way of approaching the question is to try to find out how the profits derived from the land are divided. The land revenue is supposed to be equal to half the rent paid by an ordinary tenant at will, but, as a matter of fact, it is usually much less. In considering cash rents paid by occupancy tenants in connection with

* If unreasonable claims are made under the head of severance, Government may [illegible] ... ion 49 (2)]

[illegible] ... [illegible] th the *determination* [illegible] ... 1904

[illegible]

§ Section 24, sixth head.

‖ Section 24, third head.

¶ Section 31 (3).

** Section 29.

the apportionment of compensation between them and their landlords, the most favourable assumptions to adopt, as far as the latter are concerned, are that the assessment is up to the theoretical standard, and that the rents are the highest allowed by law for tenants of the class concerned. If an occupancy tenant belongs to the most favoured class, whose rent is limited to the land revenue and cesses *plus* a *malikana* equal to one eighth of the land revenue,* it might be argued that the tenant should receive seven eighths of the compensation. But, if he belongs to a class which may be required to pay a *malikana* equal to three fourths of the land revenue, his share of the compensation, as measured by the rent he pays, would be one fourth. It will probably be found that calculations based on the rents paid by occupancy tenants, at least in cases where the *malikana* is low, would give the landlord less than village opinion generally would hold to be his due. Entries as to the division of compensation between landowners and occupancy tenants are sometimes to be found in village administration papers. Where the allotment there stated is not palpably unjust, it is well to adopt it without further question. But it is clear that, where all the administration papers of the district contain an identical entry without any discrimination between different classes of occupancy tenants, it cannot be accepted without further enquiry.

References to the civil court.

483. Right-holders who object to the award of the Collector as regards any of the matters which it determines may require him to refer their objections for decision to the District Judge.† As soon as the award is announced, the Collector should proceed to pay the compensation to all who are prepared to accept it, either willingly or under protest.‡ A right holder who receives the money without protest cannot afterwards demand a reference to the civil court.§ A list must therefore be made of those who refuse to accept it or accept it under protest. Immediate notice of the award must also be given to all the right-holders who have not appeared before the Collector, so that no delay may occur in making any references to the civil court which their objections may render necessary.||

Taking of possession.

484. As soon as the award has been made, the Collector should ordinarily take possession of the land "which shall thereupon vest absolutely in the Government free from all encumbrances."¶ He need not delay doing so merely because some of the right holders refuse to accept his award. But, if the amount of the claims to compensation put in much exceed the sum awarded, possession should not be taken without first referring to the authority sanctioning the work until the period within which applications for a reference to the court has elapsed without any applications being lodged.** Once possession has been

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* See paragraph 216 of the Settlement Manual.

† Section 3 (*l*) and Punjab Government notification No. 1791, dated 26th February 1883, section 18.

‡ Section 31 (1).

§ Section 31 (2).

|| Section 12 (2). For the period within which applications for a reference to the Court must be lodged, see proviso to section 18 (2).

¶ Section 16.

** Government of India letter No. 503-C.W.B., dated 19th September 1893.

taken, Government is bound to complete the acquisition of the land, whatever it may cost to do so The fact that compensation has been paid does not entitle the departmental officer to enter upon the land; he must receive possession of it from the Collector.

Immediate possession in urgent cases.

485. The 17th section of the Act makes it lawful for the Collector in cases of urgency to take over land without the assent of the owners and without waiting for the completion of the legal formalities But, before doing so, he must tender to the right holders compensation for standing crops and trees and for any damage suffered by them on account of sudden dispossession Legal requirements may also of course be waived by agreement with the proprietors But the Collector must satisfy himself that the agreement is really a voluntary one, and that the getting of immediate possession is a matter of great importance * For, when land is taken up in this way, it is difficult afterwards to assess compensation for standing crops and trees, and it is hardly possible to refuse to complete the acquisition, even though it becomes evident that Government runs a risk of having to pay an extravagant sum as compensation

Representation of Government before civil court.

486 When he makes a reference to the District Judge, the Collector must inform the departmental officer that he has done so, and must supply him with a copy of the right-holder's application stating the grounds of his objection to the award The proceedings before the civil court are of a judicial character † Facts must be proved in a legal manner, and all evidence, whether oral or documentary, on which the award is based, must be produced Unless the objection merely relates to the apportionment of the compensation, its amount not being in dispute, the District Judge gives the Collector notice of the date of hearing, and the Collector must arrange for Government being properly represented in court by the government pleader ‡ The latter must in any case receive a copy of the notice served on the Collector so that he may have an opportunity of being present at the hearing of the case

Appeal.

487 An appeal lies to the High Court from decisions in land acquisition cases passed by a District Judge §

Reduction of revenue.

488 The reduction of the land revenue assessment consequent on the taking up of land has effect from the harvest succeeding the last one in which the owners have been able to garner their crops

Compensation to assignees.

489. If the revenue is assigned, the capitalized value of the demand may be paid to the *jagirdar* or *m'afidar* But the loss of the position of assignee, or even the diminution of the income derived from an assignment, is so unpalatable that, where possible, the necessary reduction should be made from *khalsa* revenue. It is usually feasible to arrange for this being done where only part of the revenue of an estate is assigned In other cases, where the loss of revenue is very small, the *jagirdar* or *m'afidar* must be content to accept a lump sum

*Detailed instructions on this subject will be found in paragraphs 65—70 of Financial Commissioner's Standing Order No 28

† Section 53

‡ See in this connection the instructions in the Punjab Law Department Manual

§ Section 54

for compensation But, when it exceeds Rs 100, or amounts to one fifth of the total land revenue enjoyed by the assignee the Deputy Commissioner may make a proposal for the grant of a pension or of a new assignment Such a proposal should not be made as a matter of course, but only in favour of a deserving assignee who feels keenly the loss of his *jagir* income *

Temporary occupation of land

490 The local government may direct the Collector to take up land for any period not exceeding three years In cases of temporary occupation of this kind, no notification is published in the Gazette The Collector calls the right holders together and endeavours to come to an agreement with them as to the rent to be paid In fixing the amount, it must be remembered that the landowners will remain liable for the land revenue If the Collector cannot come to an agreement with the right holders he must refer the matter in dispute for the decision of the District Judge †

Compensation for damage done during occupation

491 At the expiry of the term of occupation the Collector must offer compensation for any damage done to the land not provided for by the agreement and the right holders may require Government to buy it outright if it has become permanently unfit for the purpose for which it was used immediately before it ceased to be in their possession ‡ Any dispute as to the condition of the land must be referred to the District Judge §

Taking up of land for companies

492 What has been said above about the acquisition of land for the State applies equally to the taking up of land for a company under the provisions of Part VII of the Act ||

Disposal of land no longer required

493 Where land in the permanent occupation of any department is no longer required it should be handed over to the Deputy Commissioner of the district, who becomes responsible for the disposal of it under the orders of the Commissioner There is no legal bar to its being put up to auction But as a matter of grace Government is usually willing to restore agricultural and pastoral land to the persons from whom it acquired it or to their heirs on their refunding the amount paid as compensation less the 15 per cent granted for compulsory acquisition ¶ The price may be lowered if necessary on account of deterioration or enhanced in the rare case of land having been improved by the use to which Government has put it The improvement must be one affecting the quality of the land The fact that land which was unirrigated at the time of acquisition can when relinquished, be watered by a canal is not an improvement of this sort Considering how great the rise in the market value of land has been,

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* Punjab Government No 519 dated 4th September 1890 For the scale of compensation in case of *jagir* revenue see paragraph 53 of Financial Commissioner s Standing Order No 28

† Section 35

‡ Section 36

§ Section 37

|| Sections 38—44 and Part B of Financial Commissioner s Standing Order No 28

¶ Government of India resolution No 13—14—130 dated 30th October 189[illegible]. If the rights of occupancy tenants were acquired as well as those of landowners the proprietary rights restored should be made subject to the occupancy rights under the provisions of the Crown Grants Act, XV of 1895.

the terms stated above are very liberal It is not necessary to adopt them in their entirety where the persons concerned are remote descendants or relations of the original holders And, where the circumstances of the case are at all out of the common, when, for example, no price, or merely a nominal price, was paid to the owners in the first instance, or when the rise in the value of land in the neighbourhood has been exceptionally large, the Commissioner should be consulted before any terms are offered to the heirs of the persons from whom that land was acquired

Case in which preference should be given to owners of adjoining fields.

494 In the case of plots which from their size or shape are practically of no value to anyone but the owners of the adjoining fields, the option of purchase at the market value should be given to them The mere fact that an outsider is prepared to outbid them should not deter the Deputy Commissioner from accepting any fair offer which they may make

Action when the heirs and neighbouring proprietors do not wish to purchase

495 If the heirs of the original owners cannot be traced, or if they or the proprietors with a claim on the ground of vicinage decline to accept the terms offered to them by the Deputy Commissioner, the land may be put up to auction or dealt with as may appear advisable under the orders of the Commissioner

Department concerned to be consulted before land is actually sold

495 A The department by which the land is surrendered should be given an opportunity of criticizing the rendition price to be demanded and of commenting upon any bid or tender before it is accepted

Report to Commissioner

496 In negotiations for the disposal of land no longer required, the Deputy Commissioner must make it plain that any terms he proposes are not binding on Government till they have been sanctioned by the Commissioner In ordinary cases it is enough for him to note his proposals in the last column of the statement proposing the addition to the land revenue roll which will follow on the reversion of the land to private ownership But if the area relinquished is large or if any doubtful questions arise in connection with its disposal it is better to deal with the case in a separate report

Transfer of land between Government departments.

496 A For the procedure to be followed in cases of transfer of State lands and buildings from the Central Government to a local Government of lands in the possession of one department to another, and of land owned by municipalities reference should be made to part A of the Financial Commissioner's Standing Order No 28

It will be noticed that in these cases of acquisition the provisions of Act I of 1894 are not applicable

Book IV.—Collection of Land Revenue and Local Rate.

CHAPTER XV.

COLLECTION OF LAND REVENUE

497 There is nothing on which the happiness of subjects and the stability of Government more depends than the way in which revenue is assessed and collected. The old monarchy in France, which at one time had conferred great practical benefits on that country was gradually undermined by its failure to limit the amount of its taxation to distribute it fairly over the different classes of the community and to collect it without oppression, and at last fell with a crash which shook the whole of Europe. The measures adopted by the British Government in India to secure an equitable assessment of the land revenue have been described elsewhere. We are here only concerned with the regulations for its collection, a matter of equal importance and sometimes of even greater difficulty.

Taxation the touchstone of good or bad administration

498 The income of Indian Governments, whether native or foreign has always been mainly derived from the share of the produce of the soil which the State claims as its own.* It is one of the chief duties of the head of a district to collect the land revenue and the local rate.† The second charge is levied as a percentage on the land revenue and for practical purposes is hardly distinguishable from it. The Deputy Commissioner is also the Collector of the various taxes imposed by the Government, but with these this handbook is not concerned. It will be necessary, however, to notice briefly his duties in connection with the realization of the rates levied in many districts for the use of canal water.

Deputy Commissioner responsible for collection of land revenue and local rate

499 }
500 } *Cancelled*

501 The land revenue of a holding, or of an estate being a cash commutation of the right of Government to a share of the crops grown upon it is properly declared to be 'the first charge upon the rents profits and produce thereof'.‡ It is the Deputy Commissioner's business to safeguard this right. Without his consent no court can attach the 'rents, profits or produce' until the current land revenue and any arrears that may be due have been paid.§ Orders issued by civil and criminal courts for the attachment of land, or any interest in land, or the produce of land, must be addressed to and executed by, the Revenue Department.||

Revenue a first charge on produce of land

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* See chapter I of the Settlement Manual.

† For the local rate see paragraph 91 of the Settlement Manual. No part of the village officer's cess (paragraph 231 of this Manual) is now paid into the treasury. For the *malba* and village cesses see paragraphs 92—97 of the Settlement Manual. The Deputy Commissioner has no direct concern with their collection.

‡ Act XVII of 1887, section 62 (1). The sections quoted in this chapter are sections of Act XVII of 1887.

§ Section 62 (2).

|| Section 141.

Instalments.

502. It seemed at one time natural to enforce the Government lien on the produce by making the instalments of land revenue fall due before the crops, from which they were to be liquidated, were cut. This plan in practice, led to great abuses, and was given up eight or nine years before the annexation of the Punjab. Instalments are now arranged so as to become payable shortly after the garnering of the crops. The number, dates and amounts of the instalments are fixed at settlement with the approval of the Financial Commissioner, and are often identical for all the estates in a tahsil. If experience shows clearly that the arrangements originally made are unsuitable for any estate or group of estates the Deputy Commissioner should not hesitate to ask to have them changed.*

Landowners jointly and severally responsible.

503. The joint and several responsibility of all the landowners in an estate for the payment of the whole land revenue assessed upon it is emphatically asserted in the 61st section of the Land Revenue Act. Each shareholder is therefore liable not only for the demand due on his own holding, but also for any arrears that may arise in respect of another holding. If he happened to be the only solvent landholder in the estate he could raise no legal objection to an order that he should himself pay the whole balance. In such a case the holdings of the defaulters would of course, if he so wished, be transferred to him for a term.† When an estate consists of two or more recognized sub-division (*pattis* or *tarafs*), the joint and several responsibility for an arrear arising in any particular sub-division should in the first instance, be enforced against the shareholders in the sub-division, and not against the whole community.

Extent to which joint responsibility should be enforced.

504. The communal bond never in fact existed in some parts of the Punjab. Where it is a mere fiction of our revenue system and estates are only artificial groups of independent holdings the enforcement of common responsibility, though legal, would not be just. Everywhere the tendency of our rule has been to promote individualism and the intrusion of strangers into village communities has in many places weakened the feeling of corporate life and duties. A revenue officer, in his dealings with estates should do what he can to check this process of disintegration. As far as possible, village communities should be left to themselves. As Thomason remarked:—

> So long as the Government revenue is punctually paid, it is most important that the Collector, as a fiscal officer, should abstain from all interference. . . . The great desire and object of the Government is to teach the people self government. . . . They should be instructed and encouraged thus to conduct their affairs, and by punctual payment of the Government demand to bar all direct interference on the part of the fiscal officers of the Government.‡ Where default occurs prompt action is of course required. If the

* Section 63 (1); see also paragraphs 554—558 of the Settlement Manual.

† See paragraph 521 of this manual.

‡ Thomason's Directions for Collectors, edition of 1850, paragraph 34.

arrears cannot be recovered from the defaulters themselves, the measures adopted for their realization should be so framed as to assert the principle of common responsibility

Headman not to be made scapegoat of community

505 It is the duty of the village headman to collect the revenue from the landowners and pay it into the tahsil treasury But if he can show that he has done his best and failed, his responsibility for an arrear is no greater than that of the other members of the brotherhood, and he should not be made the scapegoat

Shareholders must not be allowed to pay direct

506 A shareholder who is on bad terms with his headman sometimes tries to pay in revenue direct either in cash or by money order Such payments should invariably be refused The grant of revenue money orders to anyone but a *lambardar* is against the rules of the Postal Department

Village *khataunis*

507 To aid the tahsildar in keeping an eye on the collections for each estate a separate village account of demand and receipts known as the *khatauni* is kept up by the tahsil revenue accountant or *wasil baki navis* * One large sheet is allotted to each village, and these sheets are bound together in one or more volumes At the top a statement of the demand arranged under various heads is entered As it is important that the tahsildar should be able to see at a glance the whole of what he has to realize from each estate, the demand is shown not only on account of land revenue, fixed and fluctuating but also on account of different items of miscellaneous land revenue, such as *tirni* and *talabana* local rates canal water rates and so on In fact, everything should be put down which the estate pays into the tahsil treasury through its headmen The rest of the sheet is occupied by the collection statement Under each item of demand is shown each receipt under that head, with the date of payment At the end of the year each column should be totalled and any unpaid balances should be noted Such balances should be carefully shown under the proper heads in the *khataunis* of the succeeding year

Duties of patwari in connection with land revenue collection.

508 It is the duty of the patwari, after the *kharif* harvest inspection is over, to give the headman a list, known as the *fard dhal bachh*, showing the demand due under different heads (land revenue, local rate, etc) from the owner of each holding † This list is brought up to date and corrected if necessary, after the *rabi girdawari* A fresh list will always be required when the instalments for the two harvests are not equal or where the demand is a fluctuating one assessed by the application of acreage rates to the harvested area The patwari is bound to help the headmen by explaining the accounts and by

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* See paragraph 593 of this manual, and paragraphs 32—35 of Financial Commissioner's Standing Order No 31

† Paragraph 22 of Financial Commissioner's Standing Order No. 15 For entries of the demand by the patwari in the owners *parcha* books see paragraph 24 of that Standing Order

Payments to be credited to demand of harvest, not in liquidation of arrears

512 After the land revenue of any harvest has become due all payments must be credited against the demand on account of that harvest It is only after that has been fully satisfied that money received can be employed for the reduction of balances outstanding from previous harvests

Direct payment to assignees

513 It was formerly the rule to allow large assignees of land revenue to take it direct from the headmen This privilege was often abused, and has been withdrawn in many cases It can only be continued if the arrangements for receiving the money are satisfactory to the Deputy Commissioner* It should cease where the *jagirdar* makes it an instrument for illegal exactions or for putting pressure on landowners to transfer their lands to himself But, where he acts fairly, and the landowners have no valid ground of complaint, it is harsh to deprive the assignee of a privilege which he greatly values The collection must be made from the headmen, and not direct from the landowners A *jagirdar* cannot of course employ any of the coercive processes to be presently described If the revenue is not paid to him at the proper time, he can ask the Deputy Commissioner to collect it for him,† or, with the assent of the Deputy Commissioner, he can sue the defaulter in a revenue court ‡ Where the revenue is realized by the Deputy Commissioner for the *jagirdar*, a charge of 2 per cent, known as *haq ul tahsil*, is made to cover the cost of collection §

Failure to pay either justifiable or unjustifiable Action appropriate to each case.

514 Failure to pay the land revenue by due date may be either justifiable or unjustifiable Where it is justifiable, the demand should be either suspended or remitted The circumstances under which relief should be given in one or other of these ways are described in the next chapter The rest of the present chapter deals with the action to be taken by the Deputy Commissioner to recover arrears which have not been, and, in his opinion, ought not to be, suspended or remitted

Delay in enforcing payment harmful to landowners

515 It should be an invariable rule either to collect the demand punctually or to suspend it regularly If each instalment is not taken when it falls due, the provision of the law which makes the land revenue a first charge on the produce of the harvest becomes a dead letter. The money lender takes from his debtors the grain which should have been sold to pay the State its share, and the landowners in the end have to contract fresh debts when they are at last pressed for payment Every tahsildar must understand this, but many of them act as if mere delay in enforcing a claim which must ultimately be met were a boon to the defaulter The means which the Deputy Commissioner possesses of detecting unpunctuality are described in the XVIIth chapter ‖

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* See section 64 of Act XVII of 1887 and Land Revenue Rules 52 (1) (c) and (ii) and 56

† Land Revenue Rule 55 (ii).

‡ Section 77 (3) (p) of Act XVI of 1887 and section 64 (3) of Act XVII of 1887.

§ Land Revenue Rule 57 (ii).

‖ See paragraph 592 of this manual.

Meaning of Defaulter.

516 "Defaulter" is defined in the Land Revenue Act as meaning "a person liable for an arrear of land revenue," and as including "a person who is responsible as surety for the payment of the arrear * The definition has a wider scope than might at first sight appear Reading it with section 61 of the Act, it is clear that all the landowners in an estate are defaulters if an arrear accrues in respect of any particular holding In practice, the milder coercive processes which are all that are usually needed, are directed either against the owner of the holding in respect of which the default arises or against his headman

Application of headman for process against defaulter.

517 A headman who has shown proper diligence can obviate the risk of proceedings being taken against himself by applying to the tahsildar or Deputy Commissioner for assistance † Applications will not be entertained if the arrear has been outstanding for over six months unless the *lambardar* satisfies the revenue officer that the delay in realization has not been due to his own neglect If the application is entertained, a date is fixed, a writ of demand is served on the defaulter and he is summoned to appear ‡ If the existence of the arrear is proved, an order is recorded stating the amount and the person from whom it is due, and the duty of recovery is transferred from the headman to the tahsildar.

Personal action by tahsildar.

518 Such is the prescribed procedure But, when it is clear that a headman without any apparent reason finds difficulty in inducing his co sharers to pay their quota, it is a good plan for the tahsildar or his naib to go to the village and find out what the real cause is If he sees that the refusal is due to private enmity or jealousy, he should uphold the *lambardar's* authority by convincing the defaulters that they themselves are the persons who will suffer by delay If they assert that they suspect the headman of misappropriating the money he collects, and are afraid to entrust him with it, he should realize the revenue at once through the *lambardar* and tell him to take it to the tahsil

Misappropriation by headman.

519 Misappropriation by a needy headman is unfortunately no rare occurrence Having money in his hands, he finds it convenient to pacify his private creditors at the cost of plunging deeper into debt a month or two later when the tahsildar insists on payment of the Government demand Whenever misappropriation is proved, the headman should be dismissed, and the Deputy Commissioner should consider whether it is expedient also to prosecute him criminally

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* Section 3 (8)

† Section 97 and Land Revenue Rule 64 To enable *lambardars* to obtain process [illegible]

‡ Land Revenue Rule 65.

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Lega processes for recovery of arrears

520 The legal processes for the recovery ot arrears are—

(*a*) by service or a writ o demand on the defaulter [sections 67 (*a*), 69 and Land Revenue Rule 68 and paragraphs 3, 4 and 9 of Financial Commissioner s Standing Order No 29],

(*b*) by arrest and detention of the defaulter [sections 67 (*b*) and 69 and Land Revenue Rules 67—69],

(*c*) by distress and sale of his movable property and uncut or ungathered crops [sections 67 (*c*) and 70],

(*d*) by transfer of the holding in respect of which the arrear is due [sections 67 (*d*) and 71],

(*e*) by attachment of the e tate or holding in respect of whi h the arrear is due [sections 67 (*e*) and 72 and paragraph 21 of Financial Commissioner s Standing Order No 29],

(*f*) by annulment of the assessment of that estate or holding [sections 67 (*f*) and 73 74 and paragraphs 25—29 of Financial Commissioner s Standing Order No 29]

(*g*) by sale of that estate or holding [sections 67 (*g*) 75 76 and 79—96 and Land Revenue Rule 70],

(*h*) by proceeding against other immovable property of the defaulter [sections 67 (*h*) and 77)]

For details of the procedure to be followed in connection with each of these coercive processes, reference must be made to the sections of the Land Revenue Act and the rules and orders above noted A person against whom proceedings are taken for the recovery of an arrear may, if he denies his liability and pays under a written protest, sue in a civil court for a refund *

Writ of demand.

521 A writ of demand is known as a "*dastak*" It is little more than a reminder It shows the amount of the arrear, and requires the person addressed, to pay it, together with a service fee (*talabana*) of one rupee where the revenue involved is more than Rs 5 and of twelve annas where the revenue involved is Rs 5 or less into the tahsil by a certain date Writs are served by a special staff temporarily engaged for the purpose and the issue of many *dastaks* may mean more to a village than an addition of *talabana* to the land revenue demand A writ may be addressed to the actual defaulter, but it is usually directed to his headman unless the latter has made an application under section 97 of the Land Revenue Act † It can be issued on any day after the date of the instalment, but it is proper to allow a few day's grace and this may reasonably be extended to a fortnight where though there are two instalments it is the custom of the estate to pay the whole demand at one time There is no legal objection to the sending out of repeated *dastaks*, but only a weak tahsildar would think of doing so

* Section 78

† See paragraph 517 *supra*

A tahsildar can issue writs of his own authority. If he has his tahsil well in hand, he ought not to find many necessary Any tendency to use too freely this or the next form of coercion, which are the only two which a tahsildar can put in force himself, can easily be checked by the Collector as the tahsildar sends in monthly statements of writs and warrants issued

522 The actual defaulter or the headman who represents him may be arrested and detained at the tahsil or district office for ten days * He may be released on bail being given that he will not absent himself for certain hours daily during that period † If the arrear is not paid by the end of the term, the Deputy Commissioner may order his further detention for a month in the civil jail ‡ If the tahsildar finds it necessary to detain the defaulter for more than twenty four hours, he must report his action to the Deputy Commissioner The other landowners in the estate are not liable to this form of coercion because of their joint responsibility for arrears § nor can it be used in the case of females, minors lunatics or idiots ‖ The person who executes the warrant must not receive the money if the defaulter produces it, but must instruct the latter to take it or send it to the tahsil Of this form of coercion Thomason remarked "It is only in peculiar cases that the process of imprisonment is likely to be effective When the defaulter is living in circumstances which make him fear imprisonment, and when he has resources which enable him at once to pay the demand, there may be no more efficient process But on the poor or the embarrassed it is not likely to have any effect, whilst to the unfortunate, but honest and industrious, man it is a cruel hardship It used to be a very common practice to imprison defaulters as the first step towards the realization of the demand, but the harshness and impolicy of this have been long admitted ¶ "

Detention of defaulter.

523 The Deputy Commissioner or any other revenue officer of the 1st grade can distrain and sell the crops** and the movable property of the defaulter But the exemptions prescribed by section 60 of the Civil Procedure Code (Act V of 1908), as regards sales in execution of decrees of court apply, and in addition so much of the produce must be left unattached as the Deputy Commissioner thinks necessary for seed grain and the subsistence of the defaulter and his family and of exempted cattle until the next harvest "The process is liable to very much the same objection as the proceeding The usual defaulters are small landed proprietors whose personal property is of little value to any but themselves, and is easily removed If it is distrained and sold little is thereby realized, whilst they are greatly harassed and injured If however the defaulter be in good circumstances, and wilfully withholds payment of the just claim of Government, there

Distress and sale of movable property.

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* Section 69 (2)
† Land Revenue Rule 67
‡ Section 69 (3)
§ Land Revenue Rule 68
‖ Section 69 (4)
¶ Thomason's Directions for Collectors, edition of 1850 paragraph 68.
** Section 70

cannot perhaps be a better mode of proceeding than to distrain at once the most valuable articles of his private property This course should be followed only when there is good reason to suppose that it will be the means of compelling payment of the whole or a considerable portion of the arrear ' *

Transfer of holding

524 The holding of the defaulter may be transferred by order of the Deputy Commissioner to any solvent landowner or landowners in the estate who may be willing to pay the balance due and to accept any conditions which the Deputy Commissioner thinks fit to prescribe † He may, for example, stipulate that the defaulter shall be given part of the land to cultivate at a fixed rent, say on payment of the share of the produce usually taken from tenants at-will If it can be arranged, there is no reason why the transfer should not be to the whole village community except the defaulter For the period of the transfer the holding will then become part of the common land of the estate *(shamilat deh)* Under the law as it stood before 1887 the transfer might be a perpetual one,‡ but the term is now limited at the Deputy Commissioner's discretion to a period not exceeding 15 years or till the end of the agricultural year in which the defaulter pays to the transferee the amount of the balance on account of which the transfer was made § A suitable condition would be one combining the two, *i e*, till the end of the agricultural year in which the balance is paid or of 15 years, whichever term is shorter The transfer of a holding to one of the landowners in no way affects the joint responsibility of the other landowners in respect *of it during the period of the transfer ‖ At the end of the stipulated* term the defaulter or his heir recovers possession free of any claim by Government or the transferee on account of arrears ¶ Any transfer made is reported to the Financial Commissioner, who may cancel it or alter its conditions

Advantages of this form of coercive process

525 In cases in which the second and third forms of coercion fail, or are held to be harmful or useless, this is the process which it is ordinarily best to adopt It has the great advantage of preventing the intrusion of a stranger into the community If an arrangement can be made whereby a plot of land is left for cultivation in the defaulter's hands, he can still support himself and his family in his old home, and there may be some hope that he or his sons will learn lessons of thrift in the years in which they are excluded from the rights and temptations of ownership

Attachment of estate or holding.

526 The Deputy Commissioner can attach the holding or estate and bring it under direct management ** This process is known as *kurk tahsil* Usually the tahsildar should be the manager, but, if the

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* Thomason s Directions for Collectors edition of 1850 paragraph 70

† Section 71 (1)

‡ Clause 1 section 17 Regulation XXVII of 1803 and section 47 of Act XXXI of
e balance was paid could be converted after

** Section 72 (1)

estate is large, a non official agent may be appointed and paid by a fixed salary or by a percentage on the collections The land revenue assessment is not affected The manager steps into the position of the defaulting owner or community, and is bound by all existing engagements between landlords and tenants * The rents and profits received after attachment must be credited—

Firstly, against the cost of management and

Secondly against the demand of the current harvest on account of land revenue and cesses

Only the surplus, if any, is available for the liquidation of the balance on account of which the land was attached † As soon as it has been satisfied, and in any case at the end of five years, the land must be restored to the defaulter, who is entitled to a full account of receipts and disbursements during the period of management ‡

Use of above process.

527 Obviously this process is unsuited to the case of an ordinary peasant holding, except as a mere temporary measure, to prevent waste, when the Deputy Commissioner thinks one or other of the two following processes must shortly be adopted § It may occasionally be of use when the defaulter is a large proprietor of improvident habits, or where the real cause of default is a quarrel between the members of a village community as to the distribution of the burden over the different holdings In the latter case, the manager takes for the time being the place of the headman and collects from the proprietors the cost of management including his own remuneration, the land revenue and cesses, the arrear and the village expenses He does in fact by authority what the headman proved incapable of doing, and can, with the help of the tahsildar (when the latter is not himself manager), quickly settle any dispute as to the *bachh*

Above processes may be used by Deputy Commissioner of his own authority.

528 The five processes described above can be carried out by the head of the district without reference to any higher authority He may choose the particular one he thinks most likely to succeed, and is under no obligation to try the effect of the one before he employs another The three remaining methods of coercion can only be used with the assent of the Financial Commissioner

Annulment of assessment of holding or estate.

529 If the arrear has been outstanding for over a month and the Deputy Commissioner, after trial or otherwise despairs of recovering it by any of the above processes, he can issue a proclamation attaching the holding or estate, and can propose to annul its assessment and to manage it direct or lease it to a farmer ‖ This process cannot be used for the recovery of an arrear of land revenue which has accrued on land which the Deputy Commissioner has already taken under his control either on behalf of the Court of Wards or in pursuance of the coercive process described in

* Section 72 (2)
† Section 72 (3)
‡ Section 72 (4) and paragraph 21 of Financial Commissioner's Standing Order No 29
§ Land Revenue Rule 70.
‖ Section 73 (1) and (3)

paragraph 526 *supra* * On receipt of sanction from the Financial Commissioner, a proclamation is issued declaring that the assessment has been annulled The effect of the issue of a proclamation attaching a holding or of one annulling its assessment, is that thereafter no payment made to the defaulter by a tenant frees the latter from liability. A payment before publication of rent not properly due till some date after publication is invalid, except with the special sanction of the Deputy Commissioner †

Term of direct management or farm

530 The term of direct management or of the farm must not exceed 15 years When it is over, the holding or estate is reassessed in the light of the evidence as to its real assets which has been obtained If the owners refuse to accept the new assessment, the Financial Commissioner can order direct management for the remainder of the term of the current settlement of the district or for any shorter term

Effect of farm or direct management

531 Direct management accompanied by annulment of the assessment is known as *kham tahsil* It differs from *kurk tahsil* because the proprietary rights and obligations of the owners are for the time being in abeyance, and the land revenue settlement made with them is cancelled If part only of an estate is under farm or direct management the joint responsibility of the landowners of the rest of the estate is suspended as regards that part only ‡ The Financial Commissioner may order that contracts regarding cultivation or payment of rent already made by the defaulter, or by other persons under whom the defaulter claims, shall not be binding on the Deputy Commissioner § If it is part of the sanctioned arrangement that the owners shall remain in cultivating possession of their *khudkasht* lands, they will do so as tenants, and will pay such rent as the Deputy Commissioner thinks proper.

Landowners cannot claim re-entry till end of term

532 However profitable direct management may be to Government the defaulters cannot claim re-entry until the end of the term, and they are not entitled to any account of profit and loss when they recover possession

Remarks on direct management

533 *Kham tahsil* is only suitable in the case of a whole estate, or at least of a recognized sub division of an estate It is a punitive, or at least an exemplary, measure, which it would only be right to adopt in case of contumacy on the part of a village community, which is nowadays very rare, or where the assessment has broken down on account of the gross mismanagement or idleness of the owners. Mr Thomason's remarks may be quoted "When land is valuable, population abundant, and the assets consist of money collections from non proprietary cultivators, and the rent roll shows a fair surplus above the Government demand, there should be no hesitation in holding *kham* Ordinary care will enable the Collector to recover the balance, and probably improve the estate But

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* Section 73 (?)
† Section 74 (2) and (3)
‡ Section 73 (7)
§ Section 73 (8)

when the population is scanty, when the defaulters are a community of cultivating proprietors, when the collections are made in kind, or when the estate is deteriorated and fallen out of cultivation, *ikham* management requires much caution Its success evidently depends upon knowledge of agriculture, influence over the people, and prompt and steady action When the Collector is conscious that he possesses these qualities himself, or can command them through means of his subordinates, he has the strongest possible hold on the people Nothing more convinces them of the hopelessness of attempting by combination to defraud the Government of its dues, or to force a reduction of settlement, than the example of a few estates successfully held *kham*, and made to yield more than the original assessment . It should not, however, be attempted on any great scale because of the time and minute attention it requires nor should it be attempted at all unless the Collector finds himself in a position where he may reasonably expect to have time and opportunity to carry his experiment fairly out '* Management should be firm but sympathetic, the object to be kept in view being to fit the landowners ultimately to resume their old position with changed habits

534 Farm to a private person after annulment of the assessment is a still more drastic measure than *kham tahsil* Paragraph 531 applies *mutatis mutandis* to this process If the defaulters are inferior proprietors, it will usually be right to offer the lease to the superior proprietors No female, minor, or resident in an Indian State can be appointed farmer †

Remarks on farms

535 A farm is neither heritable nor transferable Subject to this limitation and to any other conditions expressly embodied in the lease, the farmer has for the time being all the rights of ownership in the estate, at least all the rights which Government takes into account in fixing the assessment ‡ The lease lapses on the death of the farmer unless the Financial Commissioner thinks fit to renew it in favour of his heir In any case the old proprietors are not entitled to resume possession on account of a lapse occurring before the end of the period originally sanctioned For further conditions of farming leases paragraphs 25, 26 and 28 of Financial Commissioner s Standing Order No 29 may be consulted The case of direct management or farm rendered necessary by the refusal of the landowners to accept the demand fixed at a general reassessment of the land revenue has been dealt with in paragraph 521 of the Settlement Manual

Rights of farmer

536 A yearly statement showing the result of direct management is submitted through the Commissioner to the Financial Commissioner §

Yearly statement of result of direct management.

Sale of estate or holding.

537. The sale of a holding or of an estate on account of arrears is fortunately a very rare event in the Punjab. This measure can only be adopted when all the foregoing processes are deemed to be ineffectual. The sanction of the Financial Commissioner is required;* and, in order to obtain it, the Deputy Commissioner would require to prove that the proprietor or the community was either hopelessly insolvent or stubbornly contumacious. Land managed by the Court of Wards cannot be sold for arrears, and no sale is allowed on account of balances accruing while land is under direct management or leased to a farmer.† As a preliminary step, the Deputy Commissioner should attach the holding or estate under section 72 of the Land Revenue Act.

Effect of sale.

538. If sale is sanctioned, the first step is to issue a proclamation.‡ The land is sold free of all encumbrances, and all previous grants and contracts respecting it become void as against the purchaser.§ The justification for this lies in the paramount claim of the State on the land until its title to a share of its produce has been satisfied. But rights of occupancy not created by the defaulter, and leases of land for gardens, buildings, and certain other non-agricultural purposes, are saved, and also any rights excepted in the proclamation of sale.‖ For the procedure to be followed in sale, sections 79—96 of the Land Revenue Act may be referred to. If the highest bid is evidently inadequate, and especially if it does not cover the arrears and the cost of the sale, it will usually be advisable to buy in the estate for Government. The defaulter is still liable for the balance, but, except under very exceptional circumstances, it would be wrong to take any further proceedings against him. He is entitled to receive any surplus.

Proceedings against other immovable property of defaulter.

539. The law has still further safeguarded the title of the State to its land revenue. If an arrear cannot be recovered by any of the measures described above, or if the Financial Commissioner is of opinion that their adoption is inexpedient, he can order the Deputy Commissioner to proceed against any land or immovable property belonging to the defaulter other than the holding on which the balance has accrued. In this case no grants or encumbrances created or contracts made in good faith by the defaulter are affected.¶

Actual employment of coercive processes.

540. In the Punjab the drastic character of the law on the subject of the collection of land revenue is in marked contrast to the general mildness of its administration. For proof of this assertion a reference need only be made to statement XI in the annual Land Revenue reports which gives the number of writs of demand and other processes issued and executed under sections 68—72 and 75—77 of the Land Revenue Act.

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* Section 75 of Act XVII of 1887 and section 14 of Punjab Act No. II of 1903.
† Proviso to section 75.
‡ Section 79 (1).
§ Section 76 (1).
‖ Section 76 (2).
¶ Section 77 (1). For the recovery in one district of land revenue due in another district, see Act I of 1890 (Revenue Recovery Act).

Local rate and village officer's cess.

541. The procedure for the recovery of land revenue is also applicable to the recovery of the local rate and of the village officer's cess.* A rule issued under section 71 of the Punjab District Boards Act, XX of 1883, prescribes that the local rate shall be collected by instalments bearing to one another the same proportion as the instalments of land revenue with which it is collected.†

Canal occupier's rates.

542. The 5th section of the Revenue Recovery Act (I of 1890), provides that where any sum is recoverable as an arrear of land revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land revenue.‡ The chief demand which Deputy Commissioners in the Punjab have to realize under the authority given by this section is that on account of occupier's rate levied under section 36 of the Northern India Canal and Drainage Act, VIII of 1873. It is the duty of the Deputy Commissioner in canal irrigated districts to pay as much attention to the collection of canal dues as he does to the realization of land revenue. In some districts the income from the latter is trifling compared with that from the former.

Procedure for recovery of canal dues.

543. After the *kharif* and *rabi* harvests the Canal Executive Engineer sends to the Deputy Commissioner an English demand statement showing for each estate the amount due on account of occupier's rate and the commission payable to village headmen at the rate of 3 per cent on the demand on condition of the collection being made by due date. If any *lambardar* fails to pay his quota in time, the Deputy Commissioner may confiscate the whole or part of his commission. Simultaneously with the despatch of these English statements, the Executive Engineer sends to the tahsildar a vernacular *khataunt* for every village showing the amount due from each cultivator on account of occupier's rate. The Deputy Commissioner must not receive any petitions against the correctness of any demand under the head of occupier's rate entered in the *khataunt*. Objectors must be referred to the Canal officer. Any additions made to the original demand, and any deductions from it due to remissions granted after the preparation of the statement, are communicated by the Executive Engineer to the Deputy Commissioner, who on his part furnishes to the Executive Engineer monthly statements of collections and balances.§

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* See also sections 97—99.

† Punjab Government notification No. 157 Revenue dated 18th July 1907.

‡ The 3rd section of this Act makes provision for the realization of land revenue and of sums recoverable as arrears of land revenue in a district other than that in which the demand has become due.

§ The instructions in regard to the collection of canal revenue will be found in Financial Commissioner's Standing Order No. 61—Canals.

CHAPTER XVI.

SUSPENSIONS AND REMISSIONS AND SPECIAL REDUCTIONS OF ASSESSMENTS

Advantages and draw backs of a fixed demand.

544 When the British Government substituted a fixed cash demand for collections in kind, and after painful experience learned the secret of assessing it
boon on the country
by underlings were n
and the value of the proprietary right in the land was enormously en hanced But the measure was not without serious drawbacks, some of which have only been slowly recognized as evils requiring remedy * In this chapter we are concerned with one of these evils, namely, that *arising from the occasional incompatibility between fixity of assess ment* and fluctuation of outturn, and with the measures taken to remedy it without foregoing the undoubted advantages of a demand which does not vary

Expectation that land owners would save to meet deficiencies of bad seasons disappointed

545 It was the theory of those able officers who founded the revenue system of north western India that, if a moderate revenue of fixed amount was assessed, the landowners could be expected, to an extent which actual experience has belied, to meet the Government demand in bad seasons from the surplus of good years The expectation was plausible, but it took too little account of two important factors—the Indian climate and the Indian people It did not allow enough for the extreme vicissitudes of the harvests in many parts of the country, and it assumed that habits of thriftlessness the growth of many centuries of misrule would be rapidly uprooted by supplying a reasonable motive for saving The peasant farmers of the Punjab have had the advantage of a fair fixed demand for more than half a century, but it is still true that a considerable proportion of them is lazy and thriftless a larger number hardworking and thriftless, and only a small fraction both industrious and thrifty

Fluctuating assessments

546 Where the fluctuations in the crop areas from year to year are very extreme, it has in some cases been judged best to give up a fixed demand altogether, and to adopt in its place an assessment varying with the acreage of crops harvested But so far, these fluctuating assessments in the Punjab have been mainly confined to lands subject to river inundation and to some canal irrigated tracts, and the extension of the system to areas dependent on rainfall, in which variations of outturn are even more marked, has generally been deemed inadvisable †

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*As pointed out in chapter II the undue expansion of credit, which followed on the rapid growth of the value of land in large measure nullified the effect of a fixed assessment as a school of thrift

† See chapter XXVII of the Settlement Manual

The rigidity of a fixed demand should be tempered by suspensions and remissions

547 In most tracts therefore Government looks to its officers to make a fixed demand, which is popular with the people and convenient to the State, work successfully by the use of the powers they possess of suspending and remitting revenue when there is a serious failure of crops The rigid enforcement of the demand, irrespective of calamities of season is a disastrous policy which Government has clearly condemned The folly of collecting revenue from people who by reason of severe drought have no food in their houses, and whose credit with the graindealer is well nigh exhausted, seems obvious, but in this matter routine has sometimes proved strong enough to overpower common sense

Evil resulting from laxity in collection

548 On the other hand, a fixed demand must be treated as such, and the realization of no part of it should be suspended, and still less entirely foregone, without plain necessity It is easy by laxity to demoralize the people and their headmen But it must be confessed that until comparatively recent times there was much more danger of undue rigour than of over leniency It is certainly not the intention of Government to authorize anything in the shape of laxity or carelessness in the collecton of the fixed demand, or to make the system of suspensions and remissions, as has been proposed, "a regular feature of the revenue administration" It is indeed to be adopted as an integral part of the revenue policy of the State, but it is to be recognized as a measure purely of grace, and not of right, to be exercised only in exceptional cases of calamity so severe as to justify and necessitate a relaxation of the settlement contract It is true that, even within the areas under fixed assessment, the necessity for relief will recur with greater frequency in some parts than in others, and that in tracts of great precariousness, which it has not been thought advisable to bring under fluctuating assessment, such relief may be frequently needed as a matter of administrative necessity, but, even in such tracts, Government has no intention of abandoning the general principle of 'fixity of demand,' with its attendant certainty, as the basis of its revenue system It recognizes, however, that it is unwise, even in the interests of its own revenue to insist absolutely upon what has been termed "the sacredness of the settlement contract,' or to call upon the cultivator to pay the revenue or rent in all circumstances, however unfavourable that, while it is wholesome and legitimate to expect him to take the bad with the good in years of ordinary fluctuation, payment should not be enforced under conditions which would compel a cultivator of ordinary care and prudence, who has to buy food for his family on credit, to further imperil his future solvency by borrowing to meet the demand of the State

Proper working of suspensions presupposes knowledge of agricultural economy of district

549 No man can hope to deal successfully with the questions that arise

grasp of t

crops of

harvests, the character of the landowners as regards industry, the size of their holdings, and the extent to which they are burdened with, or free from, debt The best written sources of information are the assessment reports of the different tahsils, the district gazetteers, the settle-

ment officer's tables and maps classifying estates as secure and insecure, and his scheme for the working of suspensions * But the study of these should only be an aid to the knowledge to be gained by close personal observation.

Demand should be punctually collected or regularly suspended

550 It should be an invariable rule either to collect the demand punctually or to suspend it regularly Left to themselves, tahsildars are apt, even when they know that there will be difficulty in realizing the revenue, to let matters slide, instead of making up their minds definitely whether suspensions are, or are not, required If possible, proposals for suspensions and remissions should be dealt with by the Deputy Commissioner before the crops are cut and garnered Failing that, all questions regarding the grant of suspensions on account of a harvest should have been decided by the Deputy Commissioner before the instalment on account of that harvest falls due In his tours and tahsil inspections he should find out what the estates are in which suspensions are likely to be needed, and should either himself inspect them at harvest time, or arrange for their inspection by the Revenue Assistant, or by some Assistant or Extra Assistant Commissioner of experience As far as possible, no suspension should be given until the estate affected has been visited by some officer of a higher grade than the tahsildar Until recently this was required by the instructions in every case But, in practice, where failure of crops affected a large number of estates, the rule had to be treated as a counsel of perfection An experienced revenue officer, who by marching through a stricken tract has g [illegible] crops need not hesita [illegible] ias not seen himself if [illegible] ent and an inspection note by the tahsildar or his naib Accordingly, the following rider has been added to the rule "In cases of widespread distress, where the number of estates requiring suspensions is so large that all [illegible]

affected

Classification of grounds for relief

551 The circumstances which call for suspensions and remissions may be roughly classed as—

(a) ordinary, which are usually widespread ,

(b) extraordinary, which are usually local and isolated.

The distinction is one of practical importance for the treatment appropriate to the two descriptions of cases is, as a rule, different

Ordinary calamities of season.

552 The circumstances falling under the head of "ordinary" occasions for relief are mostly those arising from the normal vicissitudes of the seasons Loss of crops is generally due to deficiency or excess of moisture The rainfall in most parts of the Punjab is very capricious both as regards its total amount, and, what is quite as important, its distribution over the months of the year According to

* See paragraphs 653-54 of the Settlement Manual

the time at which the deficiency occurs, the calamity takes the shape either of a shrinkage in the area sown or of the destruction of growing crops In a very bad season it is but too common to find both these evils united to produce disaster * When rain fails at seed time, the contraction of the area sown is of course most marked in unirrigated lands, but well crops are also affected Their acreage is often reduced, and the cost of raising them is much enhanced If the land has to be watered before it can be sown, the effect of drought on growing crops can hardly escape the most careless observer But the mischief done by frequent heavy falls of rain to crops on light sandy soils is more likely to pass unnoticed The case of flooded lands under fluctuating assessment will be referred to later Where their assessment is fixed, the same principles apply as in the case of other unirrigated lands. But it must not be forgotten that a flood which ruins the autumn crops may be of the greatest value for the much more important spring harvest.

Fluctuations of yield allowed for in assessment.

553 The calamities of which we are now treating being due to the ordinary changes of the seasons, ought in some measure to have been foreseen and allowed for by the settlement officer. His final settlement report and his scheme for the working of suspensions should throw light on this point Assessments nowadays are ultimately based on the application of a rate to the average area of successful crops for a series of years, and not to the cultivated area of the year of measurement, which may, or may not, have been normal In so far as fluctuations of yield have really been allowed for by lowering the rate on the cultivated area, the doctrine that land-owners must meet the shortage of a bad year from the surplus of good seasons should be kept in view But great watchfulness must be shown if there is a succession of poor harvests, otherwise an unfair burden may be laid on the people If the Collector is satisfied that distress really exists, and that the profits of the land injuriously affected have fallen much below what were anticipated at the time the assessment was made, the suspension of a portion of the current demand will be appropriate.

Insecure dry tracts in south eastern Punjab.

554 In very insecure tracts it will probably be found that the settlement officer has himself clearly stated that there was no demand which he could with justice to the State impose which could be paid [illegible]

rain lands in the south-east of the Punjab will dispute, and it has been fully accepted by Government. In the orders of the Punjab Government on the report of the first revised settlement of the Rohtak district sanction was given to the assessments "on the understanding that in the case of all unirrigated lands the revenue assessed is one which is to be paid in full in ordinary years, but which Government does not expect to realize at once during severe or long-continued

* See paragraph 373 of the Settlement Manual.

The rules do not apply—

(*a*) to any district, or part of a district, for which local rules have been sanctioned, or may hereafter be sanctioned;

(*b*) to unlined (*kacha*) wells or *jhalars* of similar description

RULES

I The Collector shall remit so much of the assessment on the land irrigated from a masonry or tube well as is based on the profits of irrigation from such well—

(*a*) when it ceases to be fit for use,

(*b*) when irrigation from it is superseded by canal irrigation, and canal advantage revenue has been imposed

II The Collector may grant a similar remission if the well, though still fit for use, has been out of use for four harvests, provided that no remission shall be given if the disuse of the well—

(*a*) occurs in the ordinary course of husbandry, the well being intended for use merely in seasons of drought,

(*b*) is due to the introduction of canal irrigation, and canal advantage revenue has not been imposed

Note—The revenue based on the profits of irrigation from the well shall ordinarily be assumed to be as follows —

(*i*) Where a lump sum has been imposed at the distribution of assessment on the well in addition to a non well rate—such lump sum,

(*ii*) Where a lump sum, inclusive of a non well rate, has been imposed at the distribution of assessment—such lump sum, after deducting the equivalent of the non well rate,

(*iii*) Where the distribution of the assessment has been by soil rates—the difference between the actual assessment of the area irrigated and the amount which would have been assessed on that area, if it had not been irrigated

III Cases may occur which will not be sufficiently met by the remission of only so much of the assessment as is based upon the profits of irrigation from the well Such cases should be referred through the Commissioner for the orders of the Financial Commissioner

IV In deciding whether to use the discretion given to him by rule II, the Collector shall consider whether the disuse of the well is due to some cause beyond the control of the landowner, such as the spread of salts in the soil the loss of tenants or cattle, and extreme difficulty in replacing them

V Except with the sanction of the Financial Commissioner, no remissions shall be given under these rules unless the distribution of the assessment of the estate has been made in one or other of the ways described in the note to rule II

VI When a remission is granted, it shall take effect from such harvest as the Collector may determine

VII If a new well is made to irrigate the land attached to a well in respect of which remission has been granted under these rules, or if such well is repaired, the reimposition of the assessment will ordinarily be effected in accordance with the rules for the grant of certificates of exemption contained in paragraphs 505 to 508 of the Settlement Manual

VIII Where a well for which a remission has been given is again brought into use and no certificate of exemption is granted, as, for instance, on the return of tenants or by reason of replenishment of cattle, the Deputy Commissioner shall reimpose the whole of that portion of the assessment which was remitted with effect from such harvest as he may determine

If in any case the Collector thinks the whole should not be reimposed, he should report the case for the orders of the Commissioner

IX These rules may be applied so far as they are applicable, to the grant of remissions in the case of other irrigation works constructed at private expense, such as canals, water courses, dams, embankments reservoirs, and masonry *jhalars* * They may also be applied to wells which though only partially lined with stone or brick, are expensive to make and may ordinarily be expected to last for some years

Changes in the fixed land revenue roll necessitated by the remission or reimposition of well assessments, either under these general rules or under analogous special local rules, as approved *e g*, for parts of Dera Ghazi Khan and Muzaffargarh, should be reported once a year on 1st September for orders in the form of a comparative demand statement prescribed by paragraph 9 of Standing Order No 31

Suspension usual relief in case of ordinary calamities.

559 The following instructions have been issued as to the relief to be given in the case of ordinary calamities It will sometimes be found advisable to grant relief from the beginning in the form of remissions If, for instance the amount of revenue which it is decided not to collect is such that, when considered with reference to the recent history and present condition of the people, the nature of the assessment and the character of the tract, it is practically certain that it will *be impossible subsequently to collect it, it should not be kept unnecessarily* hanging over the heads of the revenue payers, but should be remitted at once So again the special conditions of certain tracts may justify the adoption of initial remission as the rule But, in view of the fact that remissions require more careful investigation than is necessary for an order of suspension, it may be taken as a general rule that in cases of widespread calamity, where promptitude is essential relief should in the first instance be given in the form of suspensions

Extent of crop failure justifying relief

560 It is impossible to lay down a fixed criterion for the determination of the exact point of crop failure which should be deemed to

* Punjab Government letter No. 1613 S dated 22nd August 1904 The rules were amended in 1907 by Punjab Government letter No. 6 dated 8th January 1907

justify the grant of relief It has been suggested that only those *calamities which are too severe to have been contemplated by the* assessing officer as included in the normal course of events should be recognized, and the principle is sound in itself, but does not cover the whole case An eight anna failure of crops in a precarious tract where it is of no unusual occurrence would have been taken into account at assessment, and would not on this principle admit of the grant of relief, whereas a similar degree of failure in a rich and stable tract, not having been taken into consideration, would, on the same principle, be held to justify relief In this matter it has been decided to accept the conclusion arrived at in 1882 and endorsed by the Famine Commission of 1901 that "relief will not ordinarily be required when there is half a normal crop" It may indeed be necessary to vary the standard for special tracts, or under special conditions, and the considerations indicated above should then be borne in mind, but it should not be departed from except in rare cases and under exceptional circumstances On the other hand, it does not necessarily follow that the failure of more than half a crop will always justify relief, as much depends upon the nature of the harvests immediately preceding and upon the importance of the harvest in question

Scale on which relief should be given

561 (*i*) Once it is decided that relief is necessary, it remains to determine the scale on which relief should be afforded In dealing with the scale of relief to be given when the crops do not reach half the normal standard, it would be fallacious to suppose that the various degrees of crop failure can be accurately dealt with by slavishly following any arithmetical formula At the same time, without the guidance of some arithmetical standard, it is impossible to ensure any kind of uniformity in the grant of relief, and accordingly, although anything in the shape of servile adherence to formula is to be deprecated, a *standard scale of relief on an arithmetical basis is now prescribed for* general guidance, and a scale should be laid down in this form for each district or other suitable tract When a district comes under settlement, the revision of the scale for that district will be made a part of the duties of the settlement officer In deciding on the correspondence between the degree of relief to be given and the degree of crop failure [illegible] in mind, namely [illegible] decreases, mo[illegible] or has to depend for his own sustenance and that of his family upon the margin left to him after his obligatory payments have been deducted from the yield of his fields The amount required for that sustenance will no doubt be larger in good than in bad years since in the latter he must be content with a lower standard of living than in the former, but there is a minimum standard below which it is impossible for him to go—a minimum which depends to some extent upon the general circumstances and habits of his class And the deduction for subsistence being to this extent a constant quantity, it is obvious that a four anna crop will leave much less than half the margin which will be left by an eight anna crop out of which to pay rent or

revenue The relief therefore should be more than double in the former, of what it is in the latter, case Accordingly, the following may be taken as a suitable type in cases where no relief is given for a failure of less than half the normal crop —

Crop (16 annas normal)	*Degree of relief*
6 annas and less than 8 annas	25 per cent
4 annas and less than 6 annas	50 ,,
Less than 4 annas	100 ,,

The above may moreover be looked upon as showing the degree of elaboration which is considered suitable for such scales, and the introduction of tables of relief containing much greater complication than the type above indicated is deprecated

Caution regarding use of scale

(ii) In regard to the above scale, it must be remembered that, in judging the value of a crop and in deciding whether it is, for instance, equal to 6 annas, and less than 8 annas, regard must of course be had not only to the area matured, but also to the yield Thus occasionally bad conditions at sowing time may be followed by very favourable conditions later, with the result that outturns on a reduced matured area may be larger per acre than the normal, moreover, the general rule that yield per acre falls as the matured area decreases applies less fully to irrigated than to unirrigated, lands Other con-

dealing with suspensions and remissions the normal standard of out turn and area of crop is that assumed by the settlement officer on which the assessment was based

Differential treatment of landowners and estates how far justifiable

562 In considering the question of suspensions with reference to the treatment of strong and of poor and impoverished estates, a distinction must be drawn between times of famine and widespread scarcity when suspensions on a large scale have to be given, and times when the area affected is circumscribed and purely local Famine or widespread scarcity may be held for present purposes to be established if the area affected exceeds that which could be inspected thoroughly by the Revenue Assistant in a month In this case no differentiation between rich and poor villages or rich and poor revenue-payers should be attempted, and such discrimination, when exercised at all, must be confined to cases of remission (see paragraph 578 *infra*) * When the area is circumscribed or purely local the Collector should use his discretion, and must ordinarily hold the balance between the course of treating

*See paragraph 5 of Government of India Revenue and Agricultural Department, circular No. 1—43-65 dated 9th January 190"

all the land-holders in one and the same estate alike, to which he is ordinarily practically bound by motives of convenience and expediency, and the policy which would make a distinction between the village which can pay without borrowing and that which cannot In deciding whether suspension or remission of land revenue is called for in any estate, the Collector should have regard to the consideration whether such relief is called for in the interests of the tenants, irrespective of those of the landlord Rich landlords are often willing to pay in the revenue demand although there has been a failure of harvest because of the power which this gives them over tenants who have statutory rights Consideration for the interests of the tenants of an estate may necessitate suspension or remission of the land revenue, even where landlords do not wish for any such relief It is only in cases where Government cannot secure the suspension of rent for tenants that discrimination between rich and poor landowners is permissible, and even in such cases only the following three classes may be excluded from the relief afforded by suspensions Firstly, the men who are known to be bad landlords and rack renters , secondly, those well to do landowners who can pay without imperilling their future solvency , and, thirdly, the capitalist, money lending, and professional classes who hold land purely as an investment It may indeed be true, as pointed out by the Famine Commission of 1901 in paragraph 279 of their report, that many members of this last class are small men who speculate with borrowed capital , but there is no reason why they should not be held to their contract, and should not take the risks of investment in land as much as of any other form of investment While, however, authorizing the discrimination of these three classes of landlords in tracts where the extension of relief to tenants cannot be secured, or where the rent is realized as a share of the produce, and thus is automatically adjusted to the outturn of the harvest, Government at the same time recognizes the invidious character of any arrangement by which relief granted to landowners generally is denied to an occasional money lender or retired Government officer who here and there may have invested his money in land, and it will, in their opinion, be wise to abandon any attempt at discrimination, except in areas where the classes to be discriminated represent a reasonable proportion of the landowners or own fairly large tracts of land But, at the same time, the Collector should remember that, while discrimination against people of the above three classes is not prohibited, the general rule should be that discrimination between individuals should not be attempted at this stage, but should be limited to villages, or in comparatively rare cases to such *pattis* or *tarafs* of villages as are distinguished from one another in some marked way, either physically or by the caste or tribe of the landowners or mortgagees in possession In such cases the wishes of the village community should be ascertained, but the interests of the poorer, rather than those of the well to do, members of the community should be considered In reporting his action to the Commissioner, the Collector should state briefly the policy he has followed and the reasons for discriminating where he has done so

563 (*i*) When suspensions have to be granted on a large scale, Collectors should always refer to the district suspension scheme drawn up under paragraph 554 of the Settlement Manual For each district, and, where necessary, for each assessment circle, and with the special permission of the Financial Commissioner, for smaller areas, a danger rate will have been framed by the settlement officer, or, if special orders have been given in this behalf, by the Collector

The danger-rate.

(*ii*) The danger rate is intended as a rough guide to the necessity for giving relief in insecure areas, and in no way supersedes the necessity for oral and general enquiries whereby the need for such action may be otherwise established It is not meant that suspensions shall of course be confined to villages to which attention is called by the danger rate or of necessity granted in such villages Nor is it intended that the danger rate should be used for the purpose of determining the scale on which relief should be afforded The relief will be granted in accordance with the crop standard referred to in paragraph 561 *supra* after account has been taken of the considerations mentioned in (*iii*) *infra* But it may safely be said that any village in an insecure tract in which at any harvest the incidence of the revenue instalment on the matured area equals or exceeds the danger rate, should be inspected by a revenue officer, and the circumstances which bear on the question whether relief should be allowed or not, should then be fully investigated

(*iii*) Amongst these circumstances are the extent to which prices have risen since the land revenue demand was framed by the settlement officer, the character of the preceding harvests and prospects of the next, the presence or absence of stocks for food or seed, the condition of the cattle, the kinds of crops grown whether for food, for fodder or for sale, the character of the cultivation whether dependent on rain canals river spills hill torrents, or wells, the nature of the rents, whether in cash or kind the migration if any, of tenants, the relative importance of the *kharif* and *rabi* harvests the power of expanding the area of cultivation the presence or absence of sources of income other than the crop such as grass, charcoal the carrying trade, employment in cantonments, etc the size of the holdings and the number of rent receivers not themselves cultivators—in short, all those circumstances which show the general condition of the landowners and their capacity to pay the revenue

564 Under the head "extraordinary fall such calamities as hailstorms and locusts These are accidents which the settlement officer could not foresee or take account of when fixing the assessment of an estate The assets are suddenly reduced by a cause which the husbandman is powerless to control He has no means of recouping such losses, which are as likely to affect rich irrigated crops raised by a large outlay of money and labour as the cheap millets and pulses grown on roughly tilled lands, of which the yield is normally insecure In the case of a total and irrecoverable loss of which no account was taken in the arrangement made at settlement between the supreme

Extraordinary grounds for relief

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landlord, the State and the land-holders, it is but right that Government should forego its claim Remission of the demand, rather than suspension, is required, and relief should be given to rich and poor alike because by the malignity of fortune the basis of the arrangement between Government and the revenue payers has been disturbed Pending receipt of orders sanctioning remission, the Collector should himself order suspensions In deciding whether relief is necessary or not, an adequate discrimination between the persons concerned will be secured if regard is had not merely to the field affected but to the property or holding in which it lies If the field is cultivated by the owner, and the loss is small compared with the total income of his whole property, or if it is cultivated by a tenant and the loss is small compared with the total income of the holding no relief need be given No relief need be given moreover in areas where relief cannot be assured to the tenant because his rent is not payable in cash, or if payable in kind, is not of a fixed amount, and where the landlord belongs to one of the following classes —

(1) bad landlords and rack renters ,

(2) well to do landlords who can pay without imperilling their future solvency ,

(3) capitalist, money lending, and professional landlords who hold land purely as an investment

Discrimination between holdings desirable

565 Fortunately hailstorms move in narrow, well-defined lines, and the damage done by locusts is also likely to affect some holdings more than others Relief therefore is as a rule required not for a whole estate but only for particular holdings The correct method of calculating remissions of land revenue necessitated by extraordinary calamities such as hailstorms visitations of locusts, floods, and the like is to apply the *bachh* rates worked out for each village concerned at settlement to the area actually damaged No remission should be given if the amount so arrived at is less than one fourth of the total land revenue of the holding

Floods affecting lands not usually inundated.

566 Heavy floods which destroy crops on lands not usually subject to destructive inundation may be classed as "extraordinary" calamities But in this case the question may arise whether the water which has ruined the husbandman's hopes in the autumn will not secure to him an unusually large spring crop If so, there is no call for remission, and even suspension may be unnecessary

Flooded lands under fluctuating assessment

567 The floods of the great rivers of the Punjab are so uncertain that, as already noted, it has in many cases been deemed wise to put the lands subject to their influence under a fluctuating assessment Where the demand is calculated by applying acreage rates to the area of crops harvested no question of suspension or remission usually arises If serious loss occurs after the harvest inspection owing to some sudden calamity, such as a hailstorm or a flood, a fresh inspection

and assessment should be made In certain villages a heavy flood sometimes sweeps away crops after they have been garnered If the damage is great, the loss should be estimated as well as possible, and a remission of part of the demand proposed The amount to be remitted obviously should not exceed the revenue which would have been due on account of the area on which the crops that have been lost were grown The yield per acre can be roughly determined, and the calculation then becomes a simple one Where the assessment is partly fixed and partly fluctuating it will be found that in a normal year the fixed part of the demand is not a large fraction of the whole Even so, it may be prudent to suspend it in an exceptionally bad season, or when a succession of poor harvests has depressed the agriculturists But mixed systems of assessment are not now much in favour

Relief to tenants

(8) (i) Section 30 of the Punjab Tenancy Act (XVI of 1887), provides that in the case of occupancy tenants who pay rent in cash, or rent in kind of which the amount is fixed the Collector's order for suspension or remission of land revenue carries with it automatically proportionate suspension or remission of the rent payable to the landlord In the case of tenants who have not occupancy rights but who pay rent of the above descriptions the order of a duly empowered revenue officer [Collector or Assistant Collector of the 1st grade—see section 76 (2) of the Act] is required to secure to the tenants the benefit of the relief granted to the landlord A separate order of this description for each tenant is not necessary A general order may be passed applicable to a whole estate or to an area in respect of which suspension or remission has been allowed The matter is left to the discretion of the revenue officer In considering whether he should pass an order suspending or remitting the payment of rent by a tenant at will, he should carefully consider whether the issue of such an order is desirable in the interests of both the parties but more especially of the tenant

(ii) It must be remembered that the landlord retains the power of ejecting the tenant of enhancing his rent, and of changing it from a cash into a *batai* rent and may be inclined to adopt one or other of these courses if he thinks the order unfair, as he may do, *e g*, where a cash rent is suspended which had been fixed at a low rate in the expectation that it will be paid in full harvest by harvest

(iii) It will be observed that, when the Collector orders recovery of suspended revenue any rent of which the payment has been suspended in consequence of the order suspending the revenue becomes realizable from the tenant In the case of tenants who have not occupancy rights landlords may find difficulties in realizing suspended rents The likelihood of such difficulties might constitute a special reason for the revenue officer refusing to pass an order suspending the rent when the revenue is being suspended, but such an order should be refused in very exceptional cases only

(iv) If a landlord collects from a tenant rent of which the payment has been remitted or is under suspension section 30 gives the power to realize from the landlord and refund to the tenant, the rent so realized, and it gives the further power of realizing from the land

lord by way of penalty an amount equal to the rent so realized and refunded It should be recognized that the power of imposing a penalty is to be used with some discrimination A landlord might be willing enough to recognize the justice of requiring him to refund to a tenant rent which he had improperly realized, but might resent the imposition of the penalty and endeavour to visit his dissatisfaction on the tenant In deciding whether the penalty should be imposed in any case, the revenue officer should consider the possible effects on the relations between the landlord and tenant, in many cases it would obviously be to the disadvantage of the tenant that the landlord should regard him as being the cause of his punishment In the case of kind rents other than those mentioned above, no orders are required because, where the landlord takes a fractional share of the crop, the tenant gets relief automatically.

Pocedure in case of suspensions and remissions

569 The grant of suspensions is a matter within the discretion of the Deputy Commissioner But the action taken must be reported at once to the Commissioner, who may cancel or modify the orders of his subordinate The district suspension statement is forwarded to the Financial Commissioner for information after the Commissioner has recorded his orders on it and communicated them to the Deputy Commissioner Even when the Deputy Commissioner thinks that remissions should be given at once he ought as a first step to pass orders suspending the collection of the revenue Commissioners may sanction immediate remissions of land revenue due to any calamities in the harvest for which the land revenue is due up to a limit of Rs 5,000 per district They may sanction remission of revenue which has been under suspension for more than three harvests (paragraph 576 *infra*) up to a limit of Rs 10,000 for one harvest per district, if they are satisfied that since the revenue was suspended due diligence has been shown in collection Remissions sanctioned by Commissioners must be reported at once for the Financial Commissioner s information The Financial Commissioner may sanction remissions without limit

Suspended revenue usually realized

570 Though there are circumstances under which suspension ought to be merely a preliminary to remission and others in which the attempt to collect arrears should after full trial be abandoned, the general rule is that suspended revenue shall be recovered whenever the return of better seasons permits If the expectation that the landowners would in bad years meet their obligations from the stored up surplus of past harvests has had in too many cases perforce to be abandoned, there is the more reason for recovering from the abundance of future years the amount which the State is compelled to forego in the present * As in the case of suspensions, the Collector is required to take account of the value of the crop harvested as well as of the area and outturn, so, in considering the extent to which recoveries of suspended revenue can be made it is necessary not to overlook any rise in prices which may have occurred since settlement and which may

*See the orders of the Government of India on the Rohtak Settlement Report (Revenue Proceedings of September 188?) also paragraphs 7 and 8 of Government of India circular No 58 dated 18th October 1882

cause the value of the estimated produce of subsequent harvests to be materially greater than that which the settlement officer adopted for assessment purposes

571 Prudence in the realization of suspended revenue is not less important than prudence in the grant of suspensions, and it is a matter in which mistakes are just as likely to occur It has sometimes been asserted that landowners set no store by suspensions, coupled with an obligation to pay the arrears so created in the future Where this feeling exists it has generally sprung from past experience of ill considered action in the matter of the recovery of balances The old practice of fixing in the suspension order the instalments by which the arrear was to be liquidated was a direct encouragement to such action, and has therefore been forbidden

Care required in recovery of arrears

572. The following instructions have been issued on the subject — **Instructions on subject**

(i) When, owing to famine or widespread calamity, suspensions have been made on a large scale the people affected should ordinarily be allowed to reap the full benefit of the first good crop or average harvest following the famine or calamity, and should be required to pay nothing for it beyond the current dues of the harvest, no arrears of revenue being collected until the second average crop subsequent to such a calamity as is now under contemplation has been reaped ,

Recovery of suspended revenue after famine

(ii) For every district, and, where necessary, for every tract in a district which has distinguishing physical features of its own affecting agriculture and the outturn of crops, a limit shall be prescribed in terms of the landrevenue for the time being assessed within which suspended revenue may be collected with any instalment, in addition to the current demand This limit will be fixed by the settlement officer at settlement with the sanction of higher authority or under special orders, by the Deputy Commissioner with like sanction at other times The limit need not necessarily be the same for the *rabi* and *kharif* harvests, respectively, but must be fixed for each harvest

Limit in terms of land revenue

(iii) It is recognized that there may be tracts where the first of these rules would be unnecessarily liberal owing to the leniency of the fixed demand and the exceptional fertility of the soil in good years On the other hand, these circumstances will have been taken into account in fixing the limit referred to in the second of the two rules It may therefore conceivably be better in such a tract to collect a small amount of suspended revenue with the first good or average crop after the calamity, and to take a somewhat smaller amount with the second Proposals for limiting the operation of rule (i) should be included by settlement officers in the scheme for suspensions which it

Exceptions to rule (i)

is their duty to draw up (*vide* paragraph 554 of the Settlement Manual), or should be made by the Deputy Commissioner, if at any time specially instructed in this behalf

Differential treatment in collecting suspended revenue of rich and poor landowners

573 (*i*) When, owing to famine or widespread scarcity suspensions have had to be made on a large scale, no differentiation between rich and poor villages or rich and poor revenue payers will have been made, but, in making proposals subsequently for their collection, differentiation between individuals may be necessary A distinction should, in the first place, be drawn between the classes who cultivate the soil, whether as owners or as Government occupants or tenants, and the landlord class who hold estates which are cultivated by tenants A man need not be excluded from the former class merely because his holding is somewhat too large for him to cultivate himself and a portion of it is in the hands of tenants, nor should the fact that a landowner, who is in the main a rent receiver, cultivates his own home farm, transfer him from the latter to the former class, and it will not, as a rule, be difficult to distinguish the two classes with fair accuracy Of course no discrimination between one kind of revenue payer and another should be made in the case of persons belonging to the cultivating class But suspended revenue should always be collected from the classes of landlords described in paragraph 562 *pra* if the rent of their tenants has not to be remitted

Differentiation between villages

(*ii*) As between villages a certain amount of discretion in the matter is permissible, and notoriously wealthy villages may be required to pay up their arrears, even though the state of the crops might not warrant their being called on to do so but it must be remembered that all classes will have been more or less affected by the calamity, and that it is of prime importance that the effects of the calamity should be obliterated as soon as possible

Report on policy followed

(*iii*) In reporting his proposals to the Commissioner, the Collector should state briefly the policy he has followed, and in cases where he has made a difference between the rich and poor, the extent to which the difference has been made

Procedure in realization of arrears

574 A Deputy Commissioner is required at least one month before the first instalment of the revenue of each harvest falls due, to consider the circumstances of every estate in which there are arrears due to suspensions and decide what portion if any, of the balance can be recovered in addition to the demand of that harvest He should issue the necessary orders and put them in force The orders and the reasons for them are embodied in a statement which is sent to the Commissioner who modifies them, if he thinks fit, and forwards the statement to the Financial Commissioner for information It is for the Commissioner to see that the report of each district reaches him not later than one month before the first instalment of the land revenue falls due, and that it contains a sufficient explanation of the orders issued with reference to the circumstances of the current harvest

Remarks on realization of arrears.

575 It is a futile and dilatory proceeding on the part of a Deputy Commissioner to call for reports from tahsildar or the Revenue Assistant

regarding the recovery of arrears It is far better to sit down with them and discuss the case of each village in the light of past and present crop returns and of any information which *kanungos* and *zaildars* can give In the tours of tahsildars and higher revenue officers estates in which arrears exist ought to have received special attention In deciding what part, if any of an outstanding balance can be collected, the rate at which the demand of the current harvest plus the arrears proposed for realization falls on the area of matured crops should be carefully noted and compared with the normal incidence of the revenue on the crops of the same harvest in past years * It is most important that the Deputy Commissioner should himself visit estates that are believed to be in difficulties The amount to be recovered should always be a definite fraction, that is, so many annas in the rupee, of the full demand of the harvest in regard to which the suspension was sanctioned It must be remembered that collections should always be first applied to meet the current demand

576 (i) It has been usual in the Punjab in case of ordinary calamities of season to suspend revenue first, and, if the experience of three years has proved that it cannot prudently be recovered within that time, to remit the arrears then outstanding Government has however, now decided that the question of the remission of the outstanding arrears should be taken into consideration after the lapse of three harvests if it has not been found possible to recover them during this period, notwithstanding due diligence on the part of the Collector It should not now be considered a hard and fast rule that in the case of ordinary calamities remission shall under no circumstances be given immediately, or on the other hand, that all arrears must be wiped out which remain unrealized for three harvests In unirrigated tracts with large holdings no harm will be done by keeping the account open for more than three harvests if care is taken to recover more than the current demand only when this can be done without hardship to the people But large arrears ought not to be kept hanging over the heads of landowners for an indefinite period In future, in estates in which the land revenue has been suspended, and has not been recovered for three harvests the crop statistics of those three harvests should be invariably examined with particular care at the next harvest, together with the statistics of that harvest, and the Collector should decide whether any of the accumulated land revenue can prudently be recovered, and, if so, how much, or whether any part of it should be remitted

Remission of arrears

(ii) In the case of fully assessed tracts with an outturn which is fairly constant, the amount of revenue under suspension at any given time should ordinarily be limited to the equivalent of the revenue demand of an ordinary year In this case it would not follow that, when suspensions exceeded the limit, the whole amount suspended should be remitted, and logically speaking only the balance by which they were in excess should be so dealt with But in the case of calamities so severe as to call for heavy suspensions greater liberality than

General considerations regarding scale of remissions.

* See columns 23 and 24 of the Abstract Village Note book

this will no doubt be desirable An absolute and general rule that the amount under suspension should never exceed a year's revenue would be open to objection, since there are many areas of fertile soil, where there is no irrigation and the rainfall is uncertain in amount, and where on account of this uncertainty, the revenue is pitched so low, *that in a really bumper year the people could pay very much* more than the revenue assessed without the slightest inconvenience

Special scale or districts

(iii) In deciding whether to propose the remission of the arrears of any particular harvest or harvests in an estate, the Collector should consider—

(a) the proportion which the total of all outstanding arrears bears to the annual land revenue of the estate

(b) the length of time during which, notwithstanding due diligence, the arrear of the particular harvest or harvests has remained outstanding

In the case of closely cultivated and fully-assessed tracts where the holdings are small, it will often be right, when the arrears exceed one year's demand, to remit a portion of them, even though the arrears have not been outstanding for three harvests in the case of precarious *barani tracts, where the surplus of* good years is *very large,* and the revenue rates are low, the mere fact that arrears exceed one year's demand or have been outstanding for three harvests, is not a sufficient reason for remission In such tracts good and bad seasons often come in cycles, and the main point is to see that, in the case both of the current demand and of arrears collections are only made when the people have the wherewithal to pay The details of these arrangements will be settled for each district in which suspensions on a large scale are likely to occur

Remission of arrears in the case of fluctuating and fixed assessments

(iv) When in any tract a system of fluctuating assessment is introduced at resettlement it is usual to remit all outstanding balances of suspended land revenue on the ground that the new fluctuating assessment is supposed to be adapted to the assets of each harvest, and should not therefore be increased But, in the case of fixed assessment, this condition does not apply, and, although it is true that Government contemplates taking a certain sum within the term of years for which the settlement runs this principle applies equally to the expiring, as to the new, settlement As regards fixed assessments, therefore, the only case in which the general principle that all arrears should be remitted on the introduction of a new assessment can be accepted is when the revision (whether of a tract or of an individual village), has resulted in a material reduction of the fixed demand In such a case there is a practical admission that the previous demand was too high, and the arrears should invariably be remitted All other cases will be dealt with on their merits, though, if proposals for remission are made immediately after a revision of assessment, they will be treated with somewhat greater leniency than in ordinary cases, especially in the case of estates which are themselves, apart from general seasonal calamities, weak estates When reporting the

collections of suspended revenue which he proposes to make with the *rabi* instalment, the Deputy Commissioner should also report any recommendation he has to make regarding the remission of arrears

577 The initiative which the Deputy Commissioner exercises in regard to suspensions and the collection of arrears is subject to the strict control of the Commissioner The latter has necessarily a wider experience than most of his deputies some of whom are sure to be very junior officers The charge of divisions changes far less often than that of districts A Commissioner therefore should be able to supply the ripe judgment, and sometimes even the local knowledge, which a subordinate may lack, and can exert his influence to ensure that the policy pursued in different districts, where similar conditions exist, shall follow broadly the same lines If the question of suspensions and of the recovery of arrears is fully discussed with Deputy Commissioners in the course of a Commissioner's tours, which will naturally often lie through tracts which are suffering or have suffered in the past, from short harvests little subsequent interference with the orders passed by Deputy Commissioners should be necessary Government expects the Commissioner's control of the matters dealt with in this chapter to be strict and that he will not hesitate to modify the Deputy Commissioner's orders, both as regards suspension, and collection, if they appear to be ill considered or not in accord with the instructions on the subject Where the crop has been markedly inferior, Commissioners should place themselves in close communication with their Collectors at an early period of the harvest with a view to determining what measures of relief generally will be necessary This is particularly necessary in the case of junior officers and those who have not had much revenue experience

Control by Commissioner

578 It was formerly the practice in the Punjab that the suspension or remission of a part of the land revenue implied the suspension or remission of a corresponding fraction of the local rate But in consequence of the orders contained in Government of India, Department of Revenue and Agriculture, resolution No 18 356 10 of 21st August 1906, this has been changed Under existing orders the local rate will no longer be proportionately suspended or remitted with suspensions or remissions of land revenue Except in a great emergency, or unless special measures in any particular case are required, the collection of the local rate will, subject to the exception noted below, be made in full at every harvest, suspensions and remissions falling on land revenue alone Occasions may possibly arise when the remission of the local rate will be inevitable, but the intention is that under all ordinary conditions the local rate will be recoverable, notwithstanding the remission of the land revenue But, when the land-revenue demand in any estate has been entirely suspended or remitted, it will be convenient to suspend the collection of the local rate until the next collection of land revenue takes place Out of the collections then made the *local rate demand, both current* and arrears will first be satisfied the balance being credited to land revenue Thus, in all but the most exceptional circumstances, if the

Suspension and remission of cesses

CHAPTER XVII

LAND REVENUE ACCOUNTS

Means of checking collection of land revenue good

584 The machinery for checking the collection of land revenue and cesses is excellent, and if used with care and intelligence, it is easy to prevent fraud and to enforce punctuality It need only be dealt with very briefly here For details the reader must refer to Financial Commissioner s Standing Order No 31

Accounts kept by agricultural year

585 All general assessments are made for, and all revenue accounts are kept by the agricultural year opening with the kharif and closing with the rabi and for the purpose of collection and balance statements this year is considered to begin on the 1st of October

Classification of land revenue

586 In revenue accounts land revenue is classified as fixed fluctuating, and miscellaneous

Fixed land revenue

587 The meaning of the first two terms as applied to village assessments has been explained in the XXVIIth chapter of the Settlement Manual But their signification for account purposes is somewhat wider Thus fixed land revenue includes not only the fixed assessments of estates announced by a settlement officer, but also the income from Government lands leased for a term of years Of course what a tenant of the State pays for such land is rent, and not land revenue But it is important to bring on the fixed land revenue roll all items which do not vary from year to year, in order that their realization may be subject to a strict check As a matter of convenience rents of Government lands generally take the form of a land revenue assessment with the addition of a *malikana* or proprietary fee

Fluctuating land revenue

588 Fluctuating land revenue ' falls under two main heads—

(a) Items permanently excluded from the fixed land revenue roll and

(b) Items temporarily excluded from it

The former includes not merely fluctuating assessments of the kinds *described in the Settlement Manual but also collections from* estates held under direct management * Fortunately the latter is a head of account which it is very rarely necessary to employ An example of an item temporarily excluded from the fixed land revenue roll is the income derived from a lapsed *jagir* till its assessment can be added to that roll This cannot be done till the orders of the Financial Commissioner have been received on the yearly statement of lapsed assignments in which the resumption has been reported

Miscellaneous land revenue

589 ' Miscellaneous land revenue ' is the head under which are grouped receipts of various kinds some of which are not connected with the land at all

* See paragraphs 531—533 of this manual

One important head is *tirni* or the income from fees levied for grazing in the vast tracts of Government waste lands, which are so marked a feature of some of the south western districts

590 To ensure the regular collection of the revenue it is essential to have accurate demand statements drawn up yearly and periodical returns of collections and balances It will be the simplest plan to notice separately the procedure as to each of the three main heads of account

Accurate demand statement necessary

591 The demand statement is known as the land revenue roll, or in the vernacular as the *kistbandi* When a general re assessment of a district has been finished there is no difficulty in drawing up an accurate *kistbandi* showing the demand for the whole district on account of fixed land revenue After the Commissioner has sanctioned the new *jamas* reported in the detailed village assessment statement* the settlement officer prepares—

Fixed land revenue roll

(*a*) a comparative demand statement showing the fixed assessments of each estate for the last year of the old, and for the first year of the new, settlement, and

(*b*) a list of progressive and deferred assessments, if any have been sanctioned

The *kistbandi* for the first year of the new settlement is based on the former of these statements Copies of both are kept in tahsil and district offices for use in preparing future land revenue rolls †

592 Additions to the demand are chiefly caused by progressive assessments, lapse of assignments, and alluvion, and deductions from it by the grant of assignments diluvion, and the taking up of land for public purposes For each item of increase and decrease the Deputy Commissioner should be able to quote an order of the Financial Commissioner Such orders are usually passed on periodical statements for example all lapses of assignments are reported in a single annual return Great care should be taken to draw up such statements correctly and punctually It is at this stage that a loophole for future peculation is likely to be left whether by accident or design If the entries in these periodical statements are trustworthy, the accuracy of the land revenue roll is ensured

Alterations in fixed land revenue roll.

593 At each tahsil there is a revenue clerk or *wasil baki navis* who keeps the land revenue accounts The district revenue account ant or *sadr wasil baki navis* checks the demand and collection statements which the tahsildar submits, and brings all errors and omissions, and all signs of slackness in realization to the notice of the Deputy Commissioner He also supplies the figures to be embodied in the demand, collection, and balance statements which the Deputy Commissioner submits to the Commissioner

Duties of tahsil and district revenue accountants.

594 As soon as possible after the 1st of September each tahsildar has prepared for his own tahsil a detailed *kistbandi*, which shows the fixed land revenue, both *khalsa* and assigned, and the local rate

Detailed fixed land revenue roll of tahsil.

* See appendix XVII of the Settlement Manual.
† For further particulars see appendix XVIII of the Settlement Manual.

payable by the landowners of each estate, and the service commutation, if any, due from *jagirdars* This is sent to the district office, where it is checked by the *sadr wasil baki navis*, countersigned by the Deputy Commissioner and returned to the tahsildar before the 1st of October It is then the duty of the tahsildar to collect at the times when the different instalments fall due the amounts shown in the statement It is a matter of practical importance that the *kistbandis* received from the tahsils should be returned to the tahsildars by the 1st of October, for the demand statements in all the *khataunis* should be filled up as regards the principal items, fixed land revenue and cesses, before the first instalment of the *kharif* demand falls due.*

Abstract district revenue roll

595 With the help of the detailed tahsil *kistbandi* an abstract land revenue roll showing the total demand for the district is drawn up and submitted through the Commissioner to the Financial Commissioner for sanction A memorandum of increases and decreases as compared with the *kistbandi* of the previous year is appended to the roll, an order of the Financial Commissioner being quoted as the authority for each change It is therefore very easy to check the roll and difficult to falsify it

The *tauzih*

596 Each tahsildar submits monthly to the Deputy Commissioner a *tauzih* or collection statement showing the progress made in the realization of the land revenue, fixed, fluctuating and miscellaneous, and the balances remaining for recovery An abstract of these statements is sent to the Commissioner's office If the Deputy Commissioner examines this with care before signing it he can see at once whether the collections are backward anywhere and a very little enquiry will elicit the reason With the *tauzih* of the month in which the last instalment of the revenue of either the *kharif* or *rabi* harvest falls due, a village list of balances of fixed land revenue for that harvest is sent up In the last column of this statement the cause of each balance ought to be briefly explained Here therefore the Deputy Commissioner ought to find what he wants When the *tauzih* has been disposed of, the village list of balances is returned to the tahsil, and resubmitted with the necessary corrections with each succeeding *tauzih* till the balances have been realized The district revenue accountant should understand that it is his duty to scrutinize these statements of balances, and himself bring cases of unpunctuality to the Deputy Commissioner's notice

Inspection of tahsil revenue accounts by Deputy Commissioner

597. At least once in the year the Deputy Commissioner should himself thoroughly overhaul the revenue accounts in every tahsil office Where this duty is efficiently performed, and the tahsil establishment sees that the head of the district understands the method of check and the uses of the different registers and returns, and cannot be put off with perfunctory explanations, peculation will not be attempted, accounts will not be fudged, and any tendency to slackness in collection will be checked

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* See paragraph 607

598 The abstract *tauzih* forwarded to the Commissioner's office should be carefully scrutinized there before it is sent to the Financial Commissioner All the necessary control over the progress of the land revenue collections of a division should be exercised by the Commissioner, and interference on the part of the Financial Commissioner ought not to be required

Duty of Commissioner as regards collections

599 During the year causes are sure to arise which justify the failure to collect some part, great or small, of the demand shown in the fixed land revenue roll A bad harvest may make it imperative to suspend a *portion of it Again land under assessment may be destroyed* by river action or purchased by the State Properly speaking, there are only two classes of balances, 'recoverable' and "irrecoverable," but a third class is recognized under the name of "undetermined"

Balances of fixed land revenue

600 A "recoverable" balance is an arrear which has arisen either because the collection of part of the demand has been suspended by order of the Deputy Commissioner, or because the tahsildar has failed to realize revenue as regards which no such order exists If at the end of the year there are large recoverable arrears not "under suspension" one of two things must have happened Either the Deputy Commissioner must have failed to suspend revenue which he ought to have suspended, or he has not enforced punctuality on the part of his subordinates If enquiry shows that the former is really the case, only a weak man will hesitate to repair the blunder by passing the necessary suspension order and reporting to the Commissioner the action taken

"Recoverable" balances

601 On the *tauzih* for the month of March the Deputy Commissioner records a brief note showing what part of the balance of the *kharif* revenue shown is recoverable, and how much of this is under suspension If a recoverable balance not "under suspension" exists, the reason should be explained A similar note as to the balances of both harvests should be added to the *tauzih* for the month of September

Notes on balances in March and September *tauzihs*

602 "Irrecoverable" balances consist of arrears for whose remission an order of the Financial Commissioner has already been obtained Familiar examples are the orders passed on diluvion returns or on the annual statement showing reductions of revenue on account of the acquisition of land for public purposes Or again sanction may have been given to the remission of revenue previously under suspension

"Irrecoverable" balances

603 "Undetermined" balances are simply balances which are in reality irrecoverable, but whose remission has not yet been sanctioned by the Financial Commissioner

"Undetermined" balances.

604 As soon as possible after the end of September reports on the balances of the year which has just closed and on those of previous years are sent to the Commissioner The object of these statements is to obtain the sanction of the Financial Commissioner for clearing the accounts of balances which cannot be realized The executive order remitting revenue must be distinguished from the audit order to strike

Balance statements

off a balance The latter cannot be dispensed with, though it is the necessary sequel of the former

Demand statements of fluctuating land revenue

605 When the assessment is a fluctuating one determined by the application of money rates to the acreage of crops which have come to maturity, demand statements are submitted after each harvest to the Financial Commissioner The demand for the whole year cannot be determined till the spring crop is ripe

Demand statement of miscellaneous land revenue

606 *In the case of miscellaneous land revenue the demand* statement drawn up at the beginning of the year is a mere estimate which is useless for audit purposes The amount due under most heads cannot be known when the return is prepared, and in some cases is only ascertained at the end of the year But as it is essential to secure that check on collections which an accurate record of the demand supplies, a running register is kept up both in the district office and in each tahsil, in which every item of demand is posted as soon as it is known The total under each head at the end of every month represents the demand to date The form of this register will be found in paragraph 29 of Financial Commissioner's Standing Order No 31 A single example will explain its use One head of account in the register is ' lapsed revenue free holdings " Under this are columns to show the demand and the collections As soon as the Deputy Commissioner has ordered the resumption of an assignment *the file is sent to the sadr wasil baki navis who makes the* necessary entry in his copy of the running register, and notes that he has done so The file is then sent to the tahsil where the tahsil *wasil baki navis* does the same No file, which contains an order creating a demand on account of miscellaneous land revenue is accepted in the record room without notes by the district and tahsil revenue accountants showing that the demand has been brought to record The entry in the register is the tahsildar's authority for collecting the amount

Tauzihs of fluctuating and miscellaneous land revenue

607 The demand, collections and balances under the different heads of fluctuating and miscellaneous land revenue are shown in separate parts of the monthly *tauzih* referred to in paragraph 596 *In the case of miscellaneous land revenue the demand entered is the* total to date as given in the running register

Balance statements of fluctuating and miscellaneous land revenue.

608 As irrecoverable balances of fluctuating and other land revenue are remitted only and not also struck off by separate order, it is unnecessary to submit balance statements for such demands, the balances will be sufficiently reported in the *tauzih* Commissioners are competent to remit balances of such revenue and, where such remissions are required, Deputy Commissioners should obtain the necessary sanction upon a special report

Mutation fees.

609 The accounts relating to mutation fees are audited by the Director of Land Records

Book V.—State Aid to Landowners.

CHAPTER XVIII.

State loans to agriculturists.

Large improvements must be made by Government.

610 In a country in which the prevailing land tenure is the ownership of the soil in small parcels by peasants who till their own fields improvements involving a large expenditure of capital must be made at the cost of the State To this class belong the great perennial canals, which are a special feature of the Punjab, and have enormously increased its produce But in addition the peasant proprietors of the province have at their own cost since annexation, vastly improved their holdings in many ways, and especially by the construction of wells

Duty of State with reference to improvements made by landowners.

611 It is at once the duty and the interest of the State so to regulate its land revenue assessments as to ensure that improving land owners shall obtain a proper return for their expenditure It is equally its interest and its duty to advance money for improvements if landowners find it hard to raise loans for that purpose in the open market The former branch of the subject is dealt with in paragraphs 501—508 of the Settlement Manual, the latter will be discussed in the present chapter

Why Government loans are necessary.

612 It is notorious that in India, even solvent and industrious landowners can only obtain private loans on very burdensome terms as regards interest Accordingly the British Government, following the example of Indian administrations* has stepped into the breach, and offered loans for agricultural improvements at a moderate rate of interest fixed with a view, not of bringing profit to the treasury, but merely of securing it against the risk of loss Such State loans are known as *taccavi*

Early rules on the subject.

613 The grant of agricultural loans to private persons was a feature of our Indian administration from a very early date Section XXII of Bengal Regulation II of 1793 forbade Collectors to advance money on account of *taccavi* without the express sanction of the Board of Revenue and section XL of Regulation XIV of 1793 provided that arrears of *taccavi*, or any money advanced by Government to proprietors for making or repairing embankments, reservoirs, or water courses or other improvements to their estates" might be recovered as if they were arrears of land revenue Soon after the annexation of the Punjab the Board of Administration announced that it was prepared to sanction advances for the repair of old wells, for the sinking of new ones, and for the excavation of water courses † The power of sanctioning *taccavi* for works of permanent utility was delegated to Commissioners but they had no power to give loans for the purchase of bullocks or seed ‡

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* Thomason's Directions for Collectors, edition of 1858 paragraph 45

† Board of Administration circular No 41 of 1850

‡ Board of Administration circular No. 13 of 1851

System discredited in 1859

614 Seven or eight years later the system had become discredited owing to want of care in working it, and orders were issued to the effect that "the Lieutenant Governor desires to discourage such advances as much as possible, and in particular deprecates their being made to impoverished villages suffering from over assessment and entitled to a reduction of revenue, and that henceforth no *taccavi* advance shall be made except in cases where security for prompt re-payment can be obtained"* The remarks on the subject in Cust's Revenue Manual are coloured by the economic doctrine of *laisser aller* in favour 60 odd years ago

He wrote—

> "Undue interference with the landowners, though with the best intentions, is to be deprecated and generally fails
>
> It is notorious that every village has its banker and as long as credit exists, so long will advances for purely agricultural purposes in ordinary times and in ordinary cases be forthcoming, and the Government had better leave the matter alone
>
> As a general rule the practice should be discouraged, it is one for exceptional periods, and in a newly conquered country. The people should be left to their own resources and credit as regards works of permanent utility Advances for bullocks and seed are wholly to be condemned In a financial point of view it must be remembered that we are paying five per cent for the money advanced, and there is no necessity for the sacrifice †"

These views have long since been abandoned

The Government of India resolution No 6 204—16 dated 30th November 1905 in which a very liberal *taccavi* policy is advocated contains the following note of warning—

> "The Governor General in Council thinks it necessary to utter a word of caution against what he considers to be a very real and practical danger, namely, the danger of creating, by too active a policy, a forced and spurious demand for these advances Even under the most favourable circumstances irrigated cultivation requires, at all events in the case of wells, more capital than dry cultivation, and in many parts of the country, where the wells are costly and their results uncertain, and where physical conditions make it possible to irrigate only a small area from each well only the highest form of cultivation, which entails very considerable annual expenditure, is likely to be profitable In such a case it is worse than useless to encourage a peasant to contract a debt for the construction of a well, the profitable working of which is beyond his resources, and the Government of India while they are anxious to see the system of advances administered in a sympathetic

* Book circular LXXIV of 1859

† Cust's Revenue Manual, pages 135—138.

spirit and made as simple and liberal and elastic as possible, trust that no excessive inducements will be held out to individuals to apply for loans which they may find it difficult to repay, and that any increase of demand will be spontaneous and therefore healthy "*

Act XXVI of 1871

615 The first legal enactment on the subject of loans for agricultural improvements which affected the Punjab was passed in 1871, (Act XXVI of 1871). The verdict on the working of this Act passed by the Famine Commission of 1880 was that "it has failed to realize the intention of promoting improvements, and that there is a very general reluctance to make use of its provisions The sums which have been advanced under the Act are extremely small, and bear no proportion whatever to the need which the country has of capital to carry out material improvements " Act XXVI of 1871 and the rules under it were needlessly complicated, but it may be doubted whether the failure on which the Famine Commissioners commented was due to that cause *Taccavi* loans will be popular where they are obtainable without much trouble, and without payment of many douceurs to the underlings of the revenue department, and where the recovery of the instalments is made with consideration in seasons of scarcity. These requirements depend mainly not on the provisions of any Act or rules, but on the willingness of those responsible for their working to take pains and to exercise a watchful supervision over the proceedings of their subordinates

Act XIX of 1883

616 The Act on the subject now in force is Act XIX of 1883 It is a short and simple enactment, and leaves much to be provided for by rules to be issued by the local Government †

Persons to whom loans may be made.

617 Loans may be granted for the purpose of making an improvement "to any person having a right to make that improvement, or, with the consent of that person, to any other person "‡ The 9th section also provides for loans to several persons or to all the members of a village community on their joint liability In the 7th paragraph of resolution No 6—204 16 dated 30th November 1905 the Government of India strongly endorsed the opinion recorded by the Irrigation Commission (of 1903) that the joint personal security of several persons may often be accepted as sufficient to ensure the repayment of a loan, and recommend for the consideration of local Governments the rule now in force in Madras to the effect that when a loan is applied for by the members of a village community or by a group of cultivators on their joint personal security the Collector may at his discretion advance on such security an amount not exceeding five times the annual assessment of the land held by the applicants

Definition of "improvement"

618 The definition of improvement is a wide one and covers much the same ground as that contained in the Tenancy Act § It

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* Government of India Revenue and Agricultural resolution No. 6—204 16, dated 30th November 1905 paragraph 15

† Section 10 of Act XIX of 1883

‡ Section 4 (1) As regards the right of tenants to make improvements see paragraphs 70, 71 and 72 of this manual.

§ Section 4 (2), compare paragraph 75 of this manual

may be expanded by notification so as to include "such other works as the Local Government, may, from time to time, by notification in the local Gazette, declare to be improvements"* The vast majority of the improvements for which loans are taken come under the first clause of the definition, namely, the construction of wells, tanks, and other works for the storage, supply, or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture †

Period for repayment.

619 The period allowed for repayment is ample It "shall not ordinarily exceed thirty five years" from the date on which the loan has been completely taken up The Punjab rules, however, reduce this period to twenty years‡ except in special cases In the resolution quoted above it is remarked that "the Government of India are of opinion that in the case of ordinary improvements a twenty years' term for repayment is generally sufficient for the following reasons An examination of interest tables drawn up to show the amount of the annual or half yearly instalments required to discharge within different periods a loan of Rs 100 at 6 or even at 5 per cent will prove that to extend the period of repayment beyond twenty years effects no substantial reduction in the amount of the annual or half yearly instalment so that such an extension affords no great immediate advantage to the borrower, while it burdens him for a longer term with the duty of making repayments A still stronger reason is to be found in the consideration that the amount of funds available for making such loans is limited, and that the rate at which fresh loans can be made depends to a large extent on the rate at which the money already out on loan is repaid to Government, so that it may be utilised by being re issued in the form of further loans Thus to extend the terms generally adopted for repayment would reduce the number of improvements which could be aided by means of the total sum available and render it less effective for the purpose in view The Government of India therefore are of opinion that the ordinary term for repayment should not exceed twenty years, but they have no objection to a local Government taking the power to grant a longer term in special cases"

Arrears recoverable as arrears of land revenue

620 In order to protect the treasury from loss and to enable it to lend on easy terms as regards interest, large powers are taken to enforce recovery by executive action Instalments of principal and interest which are overdue may be realized from the borrower or his surety (if one has been required), as if they were arrears of land revenue due by them § The land for whose benefit the advance has been made can be dealt with as if it was land in respect of which an arrear of land revenue exists ||

Lien of Government on land for improvement of which loan is given and on land hypothecated as security

621 In the rare case of other property being hypothecated as security for repayment it can be sold as if it were immovable property of a land revenue defaulter other than the land on which an arrear

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|| Section 7 (1) (c) see paragraph 521 *et seq* of this manual

is outstanding.* The lien of Government over the land for which the loan is granted and over the property (if any) comprised in the collateral security takes precedence of the right of any mortgagee over it, even though the mortgage be of earlier date than the advance.† In actual practice it is unusual to give *taccavi*, unless the land for whose improvement it is required is free from encumbrances, but the provision of the law referred to above makes it needless to institute very elaborate enquiries regarding title. If the surety or the owner of any property hypothecated as collateral security pays an arrear, he can require the Deputy Commissioner to recover the amount on his behalf from the borrower.‡

Interest. 622. (i) Interest is charged at the rate of 7[illegible] per cent per annum, unless the local Government has, by special order, sanctioned a lower rate of interest.

(ii) If taccavi is paid at any time between June 1st and November 30th six months' interest is charged with the following *rabi* instalment, and if paid at any time between December 1st and May 31st six months' interest is charged with the following *kharif* instalment. Loans repaid during the harvest in which the advances were made are charged interest for six months.

(iii) Penal interest is not charged on instalments which have been suspended by order of competent authority, but in other cases is ordinarily charged at 7[illegible] per cent per annum simple interest on the total of the overdue instalment when the delay exceeds fifteen days. Compound interest is not charged in any case and the Collector may remit or reduce the penal interest when he is satisfied that the failure is due to inability to pay or that the levy of such interest would result in unnecessary hardship.

Allotment of funds and power of sanction. 623. The Financial Commissioner informs Commissioners as to the amounts placed at their disposal for taccavi loans during each financial year. Commissioners may divide the allotment between the districts of their divisions at their discretion, but expenditure in the division must be kept within the amount assigned. Deputy Commissioners distribute their allotments over tahsils according to requirements in order to avoid delay which occurs when a tahsildar has to apply for funds to district headquarters.

Within the limits of the funds allotted to them for the purpose, the following officers are empowered to grant loans under the Land Improvement Loans Act, XIX of 1883:—

	Rs
Tahsildars up to	1,000
Assistant and Extra Assistant Commissioners up to	1,000
Collectors up to	2,500
Commissioners up to	10,000
Financial Commissioners	Without limit

* Section 7 (1) (*d*), see paragraph 539 of this manual.
† Proviso to section 7 (1).
‡ Section 7 ( ).

Officers subordinate to the Collector will only exercise these powers when permitted to do so by the Collector

The limits apply to the amount which may be granted in any individual case Commissioners may, on the recommendation of the Collector, invest selected naib tahsildars with the powers of a tahsildar, and selected tahsildars with the powers of an Extra Assistant Commissioner, as regards the granting of loans

Loans should be of adequate amount

624 Care must be taken in cutting down the amount applied for The grant of an inadequate sum defeats the object of the Act, and is very likely to lead to the misapplication of the loan It is better to refuse an advance outright than to give one which is not sufficient to ensure the completion of the projected work

Collateral security not usually required.

625 The applicant's interest in the land to be improved is usually amply sufficient to cover the loan and, when this is the case, no collateral security need be required *

Repayment

626 A loan may be made in a lump sum or by instalments Repayment should not begin until, assuming reasonable diligence on the part of the landowner, the improvement will yield a return The Government of India think that within reasonable limits the convenience of the borrower may be consulted and that the object should be to ensure that payment, either of principal or interest is never exacted before the date when by the exercise of such due diligence as may reasonably be expected of an Indian peasant the profits of the improvement might be expected to cover the payment This period of grace should not, however exceed 2½ years in any case, and interest should be charged during its currency' (resolution No 6—204 16 dated 30th November 1905 paragraph 6) Instalments are recovered half yearly on the dates on which the first instalment of the land revenue of each harvest falls due Repayments are so arranged as to permit of the realization of an equal sum in each half year Recoveries may not be spread over a period of more than twenty years except with the sanction of the local Government † A less term is often sufficient, and the rules require advances to be repaid within as short a period as is consistent with the object for which they are made

Considerations bearing on period of recovery

627 The spreading of repayment over an unnecessarily long period means actual loss to the borrower on account of increased interest charges For instance if he chooses to repay a loan of Rs 100 in 10 annual instalments and begins his repayments after one year he will pay altogether 10 instalments of Rs 14 7 0 or Rs 114 6 0 in all, if he begins his repayments after two years he will pay 10 instalments of Rs 15-8 0 or Rs 155 0 0 in all, if he spreads the repayments over 15 years, and begins repayments after two years he will pay 16 instalments of Rs 12 0 0 or Rs 180 0 0 in all, if repayment is spread over 20 years *he will pay 20 instalments of Rs 10 6-0 or Rs 207 8-0* in all For an ordinary well the best arrangement will generally be that repayment should begin after two years and that the repayment

* See paragraph 9 (1) (A) (a) of Financial Commissioner's Standing Order No 3

† See paragraph 15 of Standing Order No 3?

should be made in 15 annual instalments of Rs 12 0-0, or Rs 180 0 0 in all, or in 30 half-yearly instalments of Rs 6 2 0, or Rs 183 12 0 in all. (See tables of equated payments appended to Financial Commissioners' Standing Order No 32) If this is understood by the borrower, the first thing to consider is his reasonable wishes If the security is good, there is no great object in increasing or curtailing the period of repayment which the borrower desires and for which he can give good reasons The matters which should weigh with him and with the Deputy Commissioner are the cost and durability of the improvement made, the necessary expense of maintenance the rate and amount of the probable return, and the period from which it will begin to accrue The debtor can of course at any time repay the whole amount still due on the loan, and thus close the transaction

Loans usually recovered easily

628 We have seen that the law has supplied the Deputy Commissioner with very powerful weapons to enforce the repayment of loans But it is only in the rarest instances that resort to them is necessary, and *taccavi* is generally recovered with ease and regularity

Suspensions and remissions

629 The Deputy Commissioner may order the suspension of any instalment in consequence of the failure of crops or any other serious calamity, reporting his action to the Commissioner * "Suspension should be given without hesitation, whenever from causes beyond the borrower's control his crops fail to such an extent as to render the payment of the instalment unduly burdensome to him, whenever suspensions of revenue are granted on a large scale over a wide area they should carry with them automatically suspensions of the *taccavi* instalments which may be due the same year, the officer who has authority to grant the loan should also have authority to grant suspension, and the suspended instalment should not be made payable in the ensuing year with the instalment of that year but the effect of suspension should be to postpone for one instalment period the payment of all remaining instalments due on the loan When a man borrows money he should be required to repay the loan with interest but time should be given him to make those repayments in such a manner as will not be ruinous to him As regards remissions the Government of India are of opinion that it is a sound principle not to remit repayment of a loan so readily as remissions of ordinary land revenue are granted and that as a general rule the risk of the failure of an improvement should be borne by the borrower as this affords the best guarantee that the money will be judiciously applied but they will have no objection to a local Government's remitting outstanding instalments or a part of them when a work fails from causes beyond the borrower's control and when recovery of the loan in full would occasion serious hardship (Government of India resolution No 6—204 216, dated 30th November 1905) The Commissioner can sanction remissions not exceeding Rs 500 in each case For larger amounts the orders of the Financial Commissioner are required †

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* See paragraph 27 of Financial Commissioner's Standing Order No 32

† Rule 8 of Land Improvement Loan Rules

Remarks on procedure

630 Instructions have been issued with the object of making the grant of loans prompt and easy To ensure that this object is not defeated the Deputy Commissioner should set his face against all vexatious formalities, and especially against repeated summonings of the applicant to the tahsil There is no reason why an ordinary *taccavi* case should occupy more than three weeks from first to last Revenue officers of any grade can receive applications, which may be written or oral* In the case of the latter a few questions put to the applicant by the revenue officer will enable him or his reader to fill up the very simple printed form of application On the back of that form there is a note stating the different points regarding which a report is necessary Landowners should be encouraged to present their applications to revenue officers in camp in order that the enquiry may be made at once, and that the necessity of summoning the applicant and his headman to the tahsil may be avoided In an ordinary case the simple enquiry called for can be made with the greatest ease All that is required is for the revenue officer to see the land for whose improvement the loan is asked, to obtain an extract from the entries regarding it in the last annual record and to put a few questions to the applicant the village headman and the *patwari* If however the necessary information cannot at once be obtained the enquiry can be made by a field *kanungo* if the loan does not exceed Rs 500 The tahsildar must state in his report whether the applicant wishes to receive payment at the tahsil or at the *sadr* In the former case his attendance at the district office is usually quite unnecessary When the tahsildar decides to recommend the loan he sends the file to the district revenue accountant (*wasil baki navis*), and if the applicant is to receive the money at the district office, gives him a slip containing the date on which he is to appear before the Deputy Commissioner The date should be so fixed as to give the revenue accountant time to check the file carefully before it is brought before the Deputy Commissioner for orders The Government of India have authorized a system of employing selected officers to take money into camp and disburse loans on the spot † For the details of the procedure to be followed under this system reference should be made to Standing Order No 32 paragraph 7 (1) A system of peripatetic distribution with oral application and disbursement on the spot is also specially suitable for tracts in which it is desirable to encourage any particular form of agricultural improvement such as the sinking of masonry wells the embankment of land for purposes of irrigation etc Such a system has been approved by Government for adoption under certain conditions Needful instructions will be found in paragraph 7 (2) of the Standing Order above referred to

Order sanctioning loan.

631 The order of the officer sanctioning the loan is in a prescribed form, at the foot of which is a statement over the signature of the borrower that he has understood and agreed to the conditions stated

* See paragraph 4 of Financial Commissioner's Standing Order No 32

† Government of India, Revenue and Agriculture Department resolution No 2—413-2 of 1st March 1905 compare paragraph 11 of resolution No 6—201 16 of 30th November 1905

in the order* One of these is that the loan shall be applied solely to the purpose set forth in the order, and that, if any part of it is misapplied the whole shall be at once recoverable The Deputy Commissioner may, and as a rule ought, to declare in the order the period within which the work must be completed If he does so failure to finish it in the time specified is declared to amount to misapplication Of course a condition of this sort must be enforced with great discretion

632 Works which are being constructed with the aid of *taccavi* loans ought to be inspected from time to time by revenue officers When they go into camp they should take with them a list of all unfinished works for which loans have been granted in the tract which they mean to visit, and make a brief report of the state of each work to the Deputy Commissioner Works for which advances have been made in a lump sum should also be inspected and reported on as soon as possible after the date (if any), on which their completion was directed in the order granting the loan In the case of an advance made by instalments the work should be reported on before each instalment subsequent to the first is paid Great care must be taken that the completion of the work is not delayed because the inspection preliminary to the payment of an instalment is not made promptly If the Deputy Commissioner is satisfied that the first instalment has been misapplied he should order it to be recovered, and make no further payment

Inspection of works

633 The Agriculturists Loans Act, XII of 1884, which replaced an earlier Act, X of 1879, enables the local Government to make rules as to the grant of loans "to owners and occupiers of arable land for the relief of distress the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects"† As in the case of a loan under Act XIX of 1883 an advance may be made to several persons or to all the members of a village community on their joint and several responsibility ‡

Act XII of 1884

634 It has been ruled that "the relief of distress" means "the relief of *agricultural* distress, that is to say, distress directly due to *calamity in agriculture*, such as the destruction of crops by drought or floods, hail or blight, or the loss of cattle by disease It must be satisfactorily shown that the distress to be relieved is directly traceable to the failure of some agricultural process, or to damage to [illegible] "any other purpose [illegible] 1883 but connected [illegible] referring to purposes directly connected with agriculture and its processes They would cover, for example, the advance of money to buy agricultural implements such as a sugarcane mill, or to construct indigo vats But a loan to a village community to enable it to build a new *abadi* on a

Objects for which loans may be made.

* See paragraphs 18 and 20 of Financial Commissioner's Standing
† Section 4
‡ Section 6.

(ii) But loans may be made to selected zamindars and registered Co operative Societies for purchase and storage of dry fodder in scarcity tracts on condition that—

(a) the amount to be so stored should be not less than 4 000 maunds and

(b) the advance should not exceed annas 8 for each maund so purchased and stored

(iii) The minimum amount of fodder to be stored being 4 000 maunds at annas 8 per maund it is necessary to provide for greater security by hypothecation of property as a preferable alternative to combined security

Procedure must be exceedingly prompt.

643 It is essential that advances under Act XII of 1884 which are usually small in amount should be made without any delay A poor man who wishes to take advantage of long looked for rain to plough or sow his fields cannot wait while files are being sent backwards and forwards between the tahsil and the district office The rules therefore provide that within the limits of the funds allotted to them for the purpose the following officers are empowered to grant loans —

Tahsildars	Up to Rs 250 for cattle and Rs 50 for seed
Assistant and Extra Assistant Commissioners	Up to Rs 300
Collectors .	Without limit

Officers subordinate to the Collector will exercise these powers only when permitted to do so by the Collector

The limits apply to the amounts which may be granted in any individual case Commissioners may on the recommendation or the Collector invest selected naib tahsildars with the powers of a tahsildar and selected tahsildars with the powers of an Extra Assistant Commissioner as regards the granting of loans

In time of famine it may be necessary to enlarge the powers of the officers named and this may be done by the Commissioner subject to a report to the Financial Commissioner * He should satisfy himself that the selected officer understands fully the circumstances under which loans should be made It is a good thing to let him take the money which is likely to be required into camp and distribute it on the spot This plan for the distribution of *taccavi* which has been sanctioned by the orders referred to in paragraph 630 is particularly suitable in the case of advances under Act XII of 1884 The money required can be drawn on abstract bills and accounted for in the same way as contingent expenditure †

Employment of special officer

644 When the total amount to be advanced will be large the Commissioner may find it necessary to apply to the local Government to post an additional Extra Assistant Commissioner or tahsildar to

*Rule 1 of the Agriculturists Loans Rules

See paragraph 29 of Financial Commissioner s Standing Order No 32

the district He can be given the powers of a Deputy Commissioner under the rules, but will of course be as completely under the orders of the district officer as any other member of his establishment If the extra officer has no previous local experience, it will usually be best to make him relieve one of the ordinary district staff who can then be employed solely on *taccavi* work

645 Having explained the extent to which the State is prepared to advance money to agriculturists in ordinary times it remains to quote the recent orders of the Government of India as to free grants for the encouragement of irrigation works in very insecure tracts and as to loans in anticipation of or in presence of famine These are contained in the 10th and 12th paragraphs of the resolution from which several extracts have been given in this chapter

Further orders of Government of India.

646 "The Irrigation Commission (of 1903) have made certain proposals with the view of encouraging irrigation in specially precarious tracts They recommend that in selected areas, which have suffered severely in recent famines and have not since obtained by irrigation or otherwise protection sufficient to guarantee them against the recurrence of similar calamities, landowners should be encouraged to apply for loans on ordinary conditions sufficient to pay for a portion of the cost of the contemplated improvements, and that Government should make a free grant of the remainder of the cost, the proportion of the free grant to the total cost depending on the property of the applicant and the marginal profit from irrigation, the suggested maximum being half the total amount required up to a limit of Rs 500 The Government of India have no objection to free grants being made under such circumstances i e, when they are applied to works the success of which is calculated to reduce future expenditure on famine relief "*

Grants in-aid of irrigation works in insecure tracts

647 The foregoing considerations are applicable to the case of loans made in ordinary times, and it remains to consider the case of loans made to agriculturists in anticipation of scarcity or during the currency of famine As regards such loans the Government of India agree with the opinion expressed by the Famine and Irrigation Commissions that loans to agriculturists are especially required in the very early stages of famine as a measure of moral strategy and to put heart into the people and that a system of advances when made in good time and with prudent forethought is a most efficient form of relief, and one which can to a very great extent be freed from the pauperizing influences of State charity These principles have been incorporated in the revised Famine Codes and will no doubt be acted upon when occasion arises It has been usual in most provinces to make advances in famine times on low interest or free from interest altogether, and to remit them with great generosity The Government of India however agree with the *Famine Commission that this is* mistaken charity, likely to demoralise the people They are of opinion that these advances should always carry interest at the usual rate, and that while due regard should be paid to the subsequent seasons

Loans in times of famine

* Any grants that may be made are chargeable to provincial revenues.

and the circumstances of the borrowers repayment of these loans should take precedence of the recovery of arrear of land revenue If it is necessary to grant some remission it should take the form of a remission of land revenue, and the loan with interest should be recovered, or if this will involve great hardship a portion of the loan itself and not merely the interest should be remitted In times of famine in place of granting loans free of interest the system of making free grants in addition to repayable loans already alluded to, may be freely utilised Advances may be made to landowners for the construction of private works to enable them to give employment to the poor, a portion of the advance being made in the form of a loan repayable with interest on ordinary terms and the remainder in the form of a free grant in aid from famine funds to be spent on the employment of labour in accordance with the system of 'Aided Village Works,' for which provision has been made in the revised Famine Codes In such times a similar system may be adopted as regards advances for the purchase of seed fodder or cattle'

CHAPTER XIX

Rural Co operative Credit Societies

648 Amongst the factors influencing the political and economic revolutions of the middle of the nineteenth century in Europe was the rapid increase in the import of wheat from the newly exploited plains of north America The direct result was to intensify the existing agrarian depression It appeared as though the land could no longer be cultivated with profit and agriculture seemed to be definitely on the decline In the British Isles the situation was relieved by extensive emigration and by the demand for labour for the rapidly expanding industries On the Continent, however the general tendency was to meet the crisis by adopting more intensive methods of cultivation and by the replacing of wheat by more valuable crops or by animal products such as butter bacon and eggs For this great change more capital was required and in order to attract it credit had to be established The Rochdale Pioneers had since 1844 shown how success was to be obtained by co operation but their plan applied originally to distributive stores and it was several years before Schulze Delitzsch and Raiffeisen adopted the essential principles to the granting of credit to farmers Generally speaking in European countries other applications of the co operative principle preceded that of credit The period was one of rapid transition, the advent of the steamship about the time of the Crimean War greatly facilitated international trade and deprived the farmer of his previous monopoly of the home market The science of modern agricultural chemistry was slowly achieving recognition and it gradually became clear to the more thoughtful that in the application of its teachings lay the best method of restoring the position of the farmer The first step was to organise the supply of fertilisers improved agricultural implements etc and much work was done in Europe in this direction between 1870 and 1885 The need for Credit Societies to enable the cultivator to adopt modern improvements in order to increase his production was also appreciated and the first experiments were started in Germany about 1862 but it was not until much later that they became general Organisation on co operative lines brought the benefits of the new methods within the reach of all who could afford them and from this to the co operative provision of capital was a small step From 1880 onwards rural co operative credit societies have steadily spread over Europe

Conditions in Europe

649 In India the problem to be faced had not arisen from outside competition but from internal causes amongst them being the ever increasing pressure which a rapidly growing population exert on the soil while the capriciousness of the seasons on which the success of the harvests depends continues to give unceasing cause for anxiety as to the food supply

The problem in India

The report of the Famine Commission of 1880 contains a list of eighteen famines and four periods of scarcity not amounting to famine

in India in the period 1769 to 1878, and it gives expression to the conviction that Indian famines are necessarily recurring calamities against which such precautions as are possible must be taken before hand, and that it is the duty of the Government to do its utmost in devising some means of protecting the country, and to persevere in its attempts till some solution of the problem has been obtained' After dealing with the obligation of Government to afford relief, the Commission urged that it is important that the measures should be so framed 'as to avoid every tendency to relax in the people the sense of the obligation which rests on them to provide for their own support by their own labour, to cultivate habits of thrift and forethought, and as far as possible to employ the surplus of years of plenty to meet the wants of years of scarcity

Amongst the principal rules of action advocated was to give loans both to small landed proprietors who are in need of such assist ance, and also to larger proprietors who may be trusted to apply the money usefully Concerning these loans, the Commission wrote that the suspension of revenue does not entirely provide for the case of the small agriculturist who finds himself without the necessary means either of subsistence or of preparing his lands for tillage and who, if he is obliged to have recourse to the money lender, can only obtain a loan on ruinous terms It should therefore be the policy of the Government to advance money freely and on easy terms on the security of the land, whenever it can be done without serious risk of ultimate loss

Shortly after the publication of this report Mr Wedderburn of the Bombay Civil Service proposed the establishment of an Agricultural Bank at Poona on lines similar to those since adopted in Egypt The management was to be in unofficial hands but Govern ment was to guarantee interest on the capital and was in the last resort to collect instalments of the loans through its subordinate revenue staff In the initial period it was not certain that Govern ment would not have to provide the capital also As Government was to assume all responsibility and risks it was considered preferable to assume the management as well and a system of State loans was introduced by the Land Improvement Loans Act (1883) and the Agriculturists Loans Act (1884) (see chapter XVIII) These measures only partially met the recommendations of the Famine Commission They provided capital for agricultural purposes at a low rate of interest, but did not include in their scope the encouragement of thrift and forethought It was left to another Famine Commission to sug gest a method of achieving this end At the same time these Acts and the rules framed thereunder indicate the lines on which a sound system of rural credit could be established careful examination into the objects for which money is required supervision over the expenditure on those objects, and recovery by instalments repayable from the addition to income which the use of the capital has yielded subject always to a suspension when the vagaries of the season render rigid repayment impracticable

650 In 1892 the Government of Madras placed Mr Nicholson on special duty to enquire into the possibility of introducing a system of agricultural or other land banks His report in two volumes (1895—97) was reviewed by the Madras Government in 1899 About the same time Mr H Dupernex I C S, began to experiment with village banks in the United Provinces In 1900 he published a little book—"Peoples Banks for Northern India" meanwhile in the Punjab, Mr Maclagan I C S was trying to start rural banks in Multan and his example inspired his former Assistant the late Captain Crosthwait, to make tentative efforts in what are now the Bhakkar and Leiah tahsils of Mianwali and Muzaffargarh respectively The problem appeared to be ripe for discussion, and the Government of India assembled a committee at Calcutta in December 1900 which reported in favour of the institution of banks on Raiffeisen lines

Co-operative credit recommended.

In May 1901 appeared the report of the Famine Commission, presided over by Lord Macdonnel It contained a clear statement of the united opinion of those who had recently given the closest consideration to the problem of rural finance We attach the highest importance to the establishment of some organisation or method whereby cultivators may obtain, without paying usurious rates of interest and without being given undue facilities for incurring debt, the advances necessary for carrying on their business Agriculture like other industries, is supported on credit The *sahukar*, or *bania* has from being a help to agriculture become in some places an incubus upon it The usurious rates of interest that he charges and the unfair advantage that he takes of the cultivator's necessities and ignorance have over large areas, placed a burden of indebtedness on the cultivator which he cannot bear .It should be understood from the outset, and made perfectly clear to all concerned, that the establishment of a village bank does not imply the creation of an institution from which the villagers may draw money at their discretion It is not intended to frighten the village money-lender by permitting a village bank to enter into competition with him over the whole field of his business, still less is it the intention to encourage borrowing for unproductive purposes No association borrowing on the joint responsibility of its members would be justified in devoting any of its funds to loans for unproductive purposes It does not consequently enter into the scope of a village bank's operations to lend for marriage festivities or for caste feasts or for similar objects If people wish to borrow money for such purposes or for any other purpose unconnected with agriculture they must still go to the village *sahukar* or *bania* The co-operative agricultural bank only aims at freeing the great business of the cultivator's life from the terrible burden which now presses on it owing to the usurious interest taken for agricultural loans '

The Commission favoured the establishment of credit associations on Raiffeisen principles which they proceeded to enumerate

651 The results of much careful consideration and prolonged enquiry and discussion was the enactment of the Co-operative Credit

Acts of 1904 and 1912.

Societies Act of 1904 This was introduced and explained in an able and clear statement by the late Sir Denzil Ibbetson, published as a resolution of the Government of India (Revenue and Agriculture), No 1—63 3, dated 29th April 1904 It was subsequently repealed and replaced by the Co operative Societies Act 1912 In 1914 the progress of the co operative movement during the preceding ten years was reviewed in a resolution of the Government of India (Revenue and Agriculture), No 12—287-1, dated 17th June 1914, and a committee was appointed under the presidency of Sir Edward Maclagan to examine whether the movement was progressing on sound lines, and to suggest any measures of improvement which seem to be required The report of this committee published in 1915 should be studied by all who have at heart the interests of the mass of the people

The rural problem as described by the committee on co operation

652 The committee on co operation considered it desirable to explain that the chief object was to deal with the stagnation of the poorer classes, and more especially of the agriculturists who constitute the bulk of the population They proceeded —

> "It was found in many parts of India, as in most European countries that in spite of the rapid growth of commerce and improvements in communications, the economic condition of the peasants had not been progressing as it should have done, that indebtedness instead of decreasing had tended to increase, that usury was still rampant, that agricultural methods had not improved, and that the old unsatisfactory features of a backward rural economy seemed destined persistently to remain The more obvious features of the situation presented themselves in the form of usury and land-grabbing on the part of the money lending classes while the agricultural classes either hoarded their savings or owing to thriftlessness and indebtedness showed themselves unable to withstand bad seasons and to meet organised trade on equal terms The depression of the rural classes was further characterised by an underlying absence of any desire for education or advancement and a certain resigned acceptance of oppression from those who by wealth or social position occupied a superior position, an attitude which, though often spoken of as 'conservative, has frequently little of intentional conservatism about it but is due rather to ignorance to a traditional subservience in the past, and to an absence of ideals for the future The peculiar feature of co operation as a remedy for stagnation is that it is intended to meet not only the more obvious material evils but also the underlying moral deterioration to which the poorer classes have so long been exposed
>
> "The stagnation of the agricultural classes in the greater part of the country has for many years attracted the attention of Government and various remedies have been tried

for improving their material condition A system of State loans was introduced, Post Office Savings Banks were opened the Civil law relating to debt was frequently and extensively amended, special legislation was initiated at various times in different areas for dealing with tenant right, the alienation of land, the general settlement of debt and the curbing of usury But although much has been done by some at any rate of these measures to help the peasant community, the general effect of the action taken can only be described as partial and incomplete The further efforts which have been made by sanitation and education to improve the environment and the intellectual condition of the poorer classes have not been more successful Without, therefore, abandoning the class of remedial measures previously attempted, the Government turned to co operation as the most hopeful method of dealing with the problem before it The theory of co operation is very briefly that an isolated and powerless individual can by association with others and by moral development and mutual support obtain in his own degree the material advantages available to wealthy or powerful persons, and thereby develop himself to the fullest extent of his natural abilities By the union of forces material advancement is secured, and by united action self reliance is fostered and it is from the inter action of these influences that it is hoped to attain the effective realisation of the higher and more prosperous standard of life which has been characterised as 'better business, better farming and better living' We have found that there is a tendency not only among the outside public but also among supporters of the movement to belittle its moral aspect and to regard this as superfluous idealism Co operation in actual practice must often fall far short of the standards aimed at and details inconsistent with co operative ideals have often to be accepted in the hope that they may lead to better things We have in our report been compelled to deal mainly with the co operative organisation from a business standpoint But we wish clearly to express our opinion that it is to true co operation alone, that is, to a co operation which recognises the moral aspect of the question, that Government must look for the amelioration of the masses and not to a *pseudo*-co-operative edifice, however imposing, which is built in ignorance of co-operative principles To this point we shall return when we deal with the constitution of co operative societies, but in the meantime we desire to point out that the combination of the material with the more or less intangible moral element

an important difference between co operation and the other remedies adopted by Government for dealing with agricultural stagnation "

Advantages gained by co operation.

653 To the above may be appended the following extract from the resolution of 1914 :—

" The aim of those who form themselves into societies is primarily economic Their object is to obtain money or the other necessities of production at cheaper rates, or to sell their produce at higher prices than those which prevail in the market to which they would individually resort If this object can be attained over a considerable portion of India the result will be of immense economic value It has, for instance, been calculated that in interest alone the agriculturists of India by taking loans from co operative credit societies instead of from the village money lenders, are even now saving themselves from an absolutely unnecessary burden of at least 20 lakhs of rupees per annum, and there is no reason why in a few years this figure should not multiply itself several times over The mere saving in interest charges is, however, a part only of the benefits received With the progress of co operation and with credit demo cratised, money that has lain rusting in hoards has been produced and placed in deposit, money that would otherwise have lain idle has found a serviceable form of investment, capital that would otherwise have been inaccessible has come into the hands of the agriculturists; old debts have been paid off and old mortgages redeemed, cases being reported in which the debts and mortgages not of individuals only but of whole villages have been cleared off With freedom from debt and with access to capital on reasonable terms, the agriculturist is enabled to develop his means with better heart and increased resources, while the production of hoarded money and its application to the development of the country, coupled with an improvement in the economic position of the people, must result in an increase in their purchasing power and in the expansion of external and internal trade

" In no direction is co operation more full of promise than in the improvement of agriculture From the first it has enabled cultivators to grapple with the difficulties caused by bad finance and an undeveloped system of rural economy, but during the last two or three years it has begun to show how it can assist them in winning a better living from a reluctant soil and treacherous seasons. In time of need, Government has never been backward in helping the peasant Loans for the purchase of seed and cattle have been generously given, lenient treatment has hastened recovery from seasonal disasters, and by

the greatest gift of all—irrigation—the liability to such disasters has been prevented over large areas But more helpful than any of these gifts is the teaching which the Agricultural Department is setting before the people The field, however, is so wide, and the skilled workers so few, that mere departmental efforts can never suffice to bring home to every cultivator the benefits that agricultural science offers It is here that co operation has stepped in It has, in some provinces, provided the means whereby, as each improved variety is perfected and made ready for use, seed can be con veyed from the Government farm to every village over large areas and can be multiplied a thousandfold, it has enabled the purity of the seed to be maintained, and the best price to be secured for the produce, it has placed within reach of the cultivator cheap manure and implements tested and approved by experts, it has supplied to cattle breeders bulls of superior strains for the improvement of the village herds, and it has provided the means by which useful information can be disseminated

"The association of co operation with agricultural improvements may assume different forms In one place the co operative society may perform the functions of an agricultural association, in another agricultural socie ties or unions may have a separate existence, but may work in the closest touch with the co operative movement But wherever agriculture and co operation have experienced the assistance which each can derive from association with the other, they are fast developing a truly organic connection and there can be little doubt that before many years this will be the case throughout India It has indeed been stated by outside observers that the efforts of these two departments have made a deeper impression on the life of the people than any of the other measures which Government is engaged in promoting

"But these direct economic improvements are not the only benefits which co operation is conferring on the country Co-operation has been in the widest sense of the term, education both intellectual and moral When men are associated for business purposes, they feel the need of education There are tangible reasons for learning to keep accounts, to sign pro notes to read pass books and receipts and knowledge of this kind must lessen the chances of fraud while members who are able to read simple co-operative literature will take a more intelligent interest in their society and in the progress of the movement Illiteracy is a hindrance to the movement, and just as co operation leads to a demand for literacy,

so literacy encourages the demand for co operation The effect of co-operation however extends beyond this It does more than merely provide cheap credit, it encourages thrift The criterion for admission to a society is a man s character and not his wealth, and men, when brought together for their common weal and when pledging their common credit, have influenced each other s conduct and advanced each other s interests in ways previously undreamt of in this country The fact that the members are ultimately responsible for the payment of the debts of each and every member, operates as a powerful check on expenditure on unproductive purposes greater than that absolutely required by public opinion and marriage expenses have accordingly been curtailed Drunkards and gamblers have been reformed or excluded from societies Self restraint punctuality *straight forwardness, self respect, discipline, contentment* and thrift have been encouraged In some areas litigation has markedly decreased In others the common funds have been used to start schools to provide scholarships to distribute quinine, to provide drinking wells, to clean streets The impetus of co operative credit has led on to saving banks benefit funds and provision for the poor Those who have first hand knowledge of co operative societies are emphatic in their appreciation of the change which the movement is making in the character of the people affected by it, and it is important to bear in mind that co operation is not merely a device for obtaining cheap money, or for increasing the economic resources of members but is also a potent educational influence and as such is deserving of the warmest support from those who have the welfare of the people at heart The managing bodies of the societies have frequently been entrusted with the arbitration of disputes and with other duties which belong to the traditional village *panchayats* and there is some reason to think that the continuity of aim, and the solidarity of feeling inherent in the movement may lead to a revival of the corporate village life which has been so weakened by the disintegrating influences of modern times

Benefits peculiar to co-operation

654 Before proceeding further it may be well to indicate the grounds on which the co operative method claims to be more worthy of encouragement than its rivals

The *taccavi* system described in the previous chapter possesses many advantages It is based on the credit of the supreme Government which does not desire to derive any profit from it This credit enables Government to borrow at from 5 to 6 per cent interest and to re lend this money at $7\frac{3}{4}$ per cent The difference represents the cost of administration of the system plus allowance for irrecoverable loans Its great advantage is the low rate of interest charged, and it might

be assumed that this alone would ensure its popularity The very fact, however that co operative credit has made such headway in the country suggests that the *accavi* system is not free from defects In order to be able to lend at such a low rate, it is necessary in the interests of the general tax payer that Government should have adequate security for the money advanced and a certainty of its ability to recover the principal The powers considered necessary (see paragraph 620 of this manual), are liable to prove harsh in the hands of unsympathetic officials, and the machinery available for working the system is apt to involve the borrowers in delays and vexations attendant on the direct receipt of loans from Government treasuries *

Moreover, as security, Government obtains a charge on the land and crops and can in the last resort sell proprietary rights by auction The protective provisions of the Land Alienation Act and Civil Procedure Code do not curtail the right of Government to realise on its security An agricultural bank would insist on a direct charge on the land or crops it is doubtful if it could afford to lend merely on personal security As Government realises no profits from its *taccavi* transactions it would seem that an agricultural bank would have to lend at a higher rate if its share holders were to receive dividends It would be a stranger to its clients, serving their needs on a business basis, the welfare of the one would be of no interest to the other

§ 655 Co operation claims to be more than a method of doing business it is an idea, a faith It depends for its success on a moral bond Given a body of persons of limited means, similarly situated, economically it provides the means for improving the interests of [illegible] of all The [illegible] iem are not [illegible] but to the combination of their own efforts and to loyal adherence to the rules they have themselves adopted They stand or fall on their own merits, whether they achieve success or suffer failure depends on their own character and their own efforts Co operation is largely mutual self help, and as the members are equally responsible for the management and are drawn from the same class in the same neighbourhood, the delinquency of one hurts his friends as well as his own society and himself There is thus a strong moral incentive to straight dealing

What co-operation means

Further co operation is an association of persons and not of capitalists, the members meet on terms of equality, void of all distinctions of class creed birth or money, and they bring to the task of promoting the economic interests of all their honesty, good character and determination to work together for success There is no element of charity, it is self help through mutual help

656 The system of rural co operative credit adopted is based on that of Raiffeisen, the essential principles are described in para

Conditions of success in

*Cf Committee s report paragraph 206.

graph 8 of the Report of the Committee on Co operation as follows —

"The society to be fully co operative must fulfil many conditions The theory underlying co operation is that weak individuals are enabled to improve their individual productive capacity and consequently their material and moral position, by combining among themselves and bringing into this combination a moral effort and a progressively developing realisation of moral obligation The movement is essentially a moral one and it is individualistic rather than socialistic It provides as a substitute for material assets honesty and a sense of moral obligation, and keeps in view the moral rather than the material sanction Hence the first condition obviously is that every member should have a knowledge of the principles of co operation, if this co operation is to be real and not a sham In the formation of a society the first essential is the careful selection as members of honest men, or at any rate of men who have given satisfactory guarantees of their intention to lead an honest life in future. As regards the dealings of the society, it should lend to its members only, and the loans must in no circumstances be for speculative purposes, which so far from encouraging thrift and honesty, have exactly the opposite effect Loans should be given only for productive purposes or for necessaries which as essentials of daily life, can fairly be classed as productive The borrowers should be required to satisfy their fellows that they are in a position to repay the loans from the income that they will derive from their increased productive capacity, or that by the exercise of thrift they can effect a margin of income over expenditure which will suffice to meet the instalments of their loans as they fall due When a loan has been given, it is essential that the committee of the society and the other members should exercise a vigilant watch that the money is expended on the purpose for which *the loan was granted If it is improperly applied, it* should be at once recalled It is further advisable to add to the general supervision of the society the special supervision of individual members, by taking personal sureties in the case of each loan. In the event of any default by the borrower an instant demand should be made on these sureties In the more general matters of the society's business there should, of course, be a committee of management with a president and a secretary, all of whom, except those who perform purely clerical duties and have no voice in the management should be members of the society and give their services to it gratuitously At the same time the ultimate authority should never be delegated

to the office bearers, but should be retained in the hands of the members who must continue to take a practical interest in the business of the society With this object the constitution should be purely republican, each member should have one vote and no more in the general meeting, and all business should be transacted with the maximum of publicity within the society For example, there should be kept in some place open to the inspection of every member a list showing the loans issued to every member, the names of his sureties and the amount of the loan still unpaid, and each member should be required to know generally how this account stands, general meetings should be frequently held at which the accounts and affairs of the society are fully discussed and explained The express object of the society should be *the development of thrift among its members, with the hope too* that this idea of thrift will spread in the neighbourhood To effect this object loans must be given only when they are really necessary and desirable Further, the development of thrift and of a proprietary interest in the society should be aided by efforts to build up as soon as possible a strong reserve fund from profits The society must also be encouraged to obtain as much as possible of its capital from the savings which its teaching and example have brought about among its members and their neighbours With all these must go the elementary business principles of honesty, punctuality, proper accounts, diligence, and payment when due To ensure all this there must be adequate control from within, increasing vigilance and supervision by the office bearers, and a continuous effort by members in learning the principles of co operation, in meeting frequently, in watching others, in working hard and observing thrift, and in punctual repayment of their own loans as they fall due "

The Punjab type of society

657 A society must have at least 10 members, its area is usually so restricted that the number is not likely to become unwieldy, the average society in India has about 40 members, in Germany it has 91 The smaller the area the more intimate is the personal knowledge and the easier it is to maintain a watch over the economic condition of each member Usually in the Punjab each member has to subscribe for at least one share of 10, 20 or 50 rupees by equal annual instalments spread over ten years These shares are not withdrawable, (which is not the same as not returnable) All net profits remain common and indivisible for ten years, and thereafter one fourth goes to reserve and three-fourths may be distributed amongst the share holders as non withdrawable shares The object of this is to raise up a buffer of the society's own capital between creditors and the unlimited liability of the members In these societies liability must be unlimited, but this does not necessarily involve the members in much

risk, the society is a body corporate, and so liability can only be enforced by a creditor on liquidation Unlimited liability is universal in all private and business dealings, partnerships, clubs, syndicates, etc, with the single exception of limited companies, and these latter are quite a modern innovation in India The liability refers to sums owed by the society to outside creditors and is in practice limited by fixing a low maximum to the loans borrowed This requires as a preliminary a limitation on the credit allowed to individual members If this latter precaution is carefully observed, and if all loans are fully secured by two sureties, there is little risk of any loss Year by year the paid up share capital increases and the profits accumulate enabling the society gradually to dispense with outside assistance until, as experience shows, after ten years the society frequently owns all the capital its members need, and its outside liability to a financing institution has been reduced to nil only in name In the Punjab in July 1931, the 16 297 village credit societies, containing 4,99,314, members, owned 38 8 per cent of their working capital of rupees 8 17 crores and the amount on loan with the members was Rs 7,18 crores * It is no part of the object of a society to earn a profit on shares, share capital is entitled to interest such as may be charged on loans, but anything above this should be devoted to improving the service rendered to members by reducing the rate of interest or otherwise promoting their economic interests

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658 In order to provide funds for village societies in the early years of their existence, central banks have been established These are not necessarily co operative in form but are Joint Stock Companies with limited liability and fixed capital They are allowed to be registered under the Co operative Societies Act and to enjoy the privileges of registered societies on condition that their sole object is the facilitating of the objects of co operative societies In the Punjab these are of two kinds, the Banking Union which has as its members and share holders only the co operative societies with which it deals and central banks proper which include individuals among their share holders The latter possess the advantage of securing more outside credit and so in the early stages of the movement proved invaluable Their success has been largely due to the unselfish devotion of a few public spirited gentlemen to whom the co operators of the Punjab rest under a great debt These banks lend only to registered societies and to the extent considered advisable by the Registrar They have a right to all information concerning their client societies which the staff can provide They must put one fourth of their annual profits to reserve while their clients are not allowed to distribute profits for ten years Their business is thus unusually safe, and as their reserve funds grow, these banks generally experience no difficulty in attracting all the credit they desire The Deputy Commissioner or Sub Divisional Officer used in most cases to be

*For the working of co-operative societies the annual reports should be referred to

ex officio President, but there are now many central banks where this is no longer so, and practice is conforming to the recommendations of the committee on co operation

In consideration of the special privileges enjoyed by these central banks the Act and rules impose certain restrictions which differentiate them from Joint Stock Companies · at least one fourth of their annual profits must go to reserve and the dividend must not exceed 10 per cent, and no person may hold more than one thousand rupees of shares or more than one fifth of the whole These restrictions, it will be observed, add to the financial stability of the bank

The Registrar and his duties

659 To control the co operative movement, Government has appointed a Registrar, whose post is now permanent, and maintains a large inspecting and teaching staff under him. In addition to this, the Punjab Co operative Union, a non official body, has a large field staff for the purposes of audit and supervision of societies, which it maintains out of its own funds, and with the help of an annual grant from Government The position and duties of the Registrar are thus described in the committee's report —

> "The progress of the co operative movement in India may be said to be due almost entirely to the fact that in every province a special officer of Government has been appointed to guide and control it In European countries we find that such officers are appointed in some cases, but that their duties are mainly of a formal character In other cases the movement is in the charge of no individual representative of Government, but Government officers in several departments are expected to give it their support and countenance In the creation of a Registrar not only to fulfil the formal requirements of the Act but also to guide and control the whole movement, the Indian Government occupies a unique position and one which we think has been of great, and could be made of still greater, utility to the movement When the appointment was first created in 1905 the retention of a Government officer as Registrar was looked on as a more or less temporary measure, and it was hoped that as experience was gained and societies became more able to stand alone, the fostering care of the Registrar would gradually be found less necessary, until ultimately he would be able to confine himself to his statutory functions only Even now the appointments in the various provinces are on a temporary footing and their further continuance will come up for consideration in 1916 but from what we have said throughout this report and in view of the duties which our recommendations impose on the Registrar it will be understood that we cannot subscribe either to the disappearance of the post or to the transference of its functions to non official agency Nor can we contemplate the continued development of co operation in India on any

other condition than the permanent maintenance of an efficient and adequate staff of Registrars

"Under the Act it is the duty of the Registrar to receive and enquire into applications for registration; to register the by laws of societies and amendments to them, to audit the accounts or cause them to be audited; to make a valuation of the assets and liabilities of societies and prepare a list of overdue loans; to see that the Act, rules and by laws are observed; to make special inspections when called upon to do so, to dissolve or cancel societies and to carry out their liquidation In order to fulfil his duties he must be continually studying co operative literature, which is now most extensive, he must make himself acquainted with economic conditions and practices both throughout India and in his own province; he must know the principles and methods of Joint Stock banking, and must examine the system of developing thrift and inculcating co operation which have been tried in other countries He is also head of a teaching establishment, and must devise effective means for impressing a real knowledge of co operation on the bulk of the population He has further to control a large staff, to draft model by-laws and rules, to collect statistics and write reports, to advise Government on various subjects, and to keep in close touch with the higher finance of the movement as managed by provincial banks and central banks In addition to this he must attend conferences, co-operative and agricultural, must keep in constant touch with markets, with honorary organisers and other well-wishers and various departments of Government, and must undertake a certain amount of writing and reading for the official press and for co operative journals As Mr Wolff has put it to us, the Registrars should not be set down as officials, but as guides, philosophers and friends to the societies, appointed and paid by the State It must further be remembered that there is no finality in the Registrar's work, and he can never feel that it has been cleared off and brought up to date He will always feel the need of wider reading and of giving more and more supervision and teaching to his societies New means and methods to attain fresh ends must constantly be discussed and devised His work is, moreover, highly responsible, involving a watch over large sums of money deposited by the public and a share in the responsibility for the economic fate of a province It can well be realised that few officers are entrusted with work more serious or more exacting"

660 The relation of district officers to the movement was thus described in the resolution of the Government of India of 1914 :—

The position of district officers

"But while the movement must be essentially a popular one and while excessive official supervision must be avoided it by no means follows that Government officials outside the circle of those directly connected with co operation should hold aloof It is true that the details of initiation and inspection should be left to the expert agency provided for the purpose and it is no part of the duty of the dis trict officer to intervene in the internal administration of societies But as co operative societies are no longer isolated experiments outside the sphere of district work, and as, beyond the material benefits which they offer, they represent an influence closely connected with the welfare of the people and powerful now and in the future for good or evil, the district officer cannot dissociate him self from the movement On the contrary, a knowledge of co operative principles and practice has now become as essential as a knowledge of revenue law, and it is his duty to maintain the closest touch with societies, not allowing them to languish through want of sympathy or to develop on undesirable lines through want of vigi lance Without in any way becoming an active pro pagandist he should, personally, and not through his sub ordinates, make himself acquainted with the progress of the movement in his district, encouraging and helping those who have formed themselves into societies, enlisting the interest and support of men of influence and wealth, and assisting with his advice those who seek to avail themselves of the benefits of co operation This in no way involves the officialising of co operation, nor does it trench upon the essential principle that the movement, if it is to succeed must be a popular one Rather will it gain in strength by such encouragement and guidance, while the more closely the District Officer is in touch with societies the more surely will he find to his hand new and valuable agencies to help him in his daily work

"It is for local Governments to consider to what extent and in what manner use can be made of societies in each province in district administration—how far they can afford a means of ascertaining the real public feeling of the district, how far they can by rendering voluntary aid assist in promoting primary education, rural sanita tion and medical relief, in what manner they can be used in times of scarcity and famine or during the prevalence of e demics, or whether the training afforded by them will lead to the development of a true system of village government

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'In these and other ways it may be found possible to utilise the co operative organisation, and the movement should, if wisely directed exercise an important influence in promoting the welfare of the people But although it is still uncertain to what extent, and in what manner, societies may assist in the work of the district there can be no doubt that a new factor in administration, which cannot be disregarded has come into being and that new duties and responsibilities have been thrown upon the district officers '

The committee on co operation agreed with the above The only definite functions assigned to the Collector by the Act are set forth in section 35 He may call on the Registrar to make an enquiry into the condition of a society and is entitled to access to all the books and to call for any information regarding the working of any society that he may require With reference to his position towards central banks, the committee wrote— although we see no objection to the Collector or sub divisional officer acting as chairman or member of the managing committee of a central bank in individual cases we do not advocate that they should hold these positions *ex officio* or as an invariable rule The district officer should, however, in our opinion always have a formal right to attend meetings of the share holders or directors of a central bank, and it is for the local Government to decide in what manner this arrangement can be best carried out He would also be the most suitable person to preside at a district conference In that character and in any position which Government in accordance with our suggestions above may assign to him on the central bank he would occupy in our opinion a position which represents correctly his general relation to the movement He would stand as a well wisher equipped with the requisite knowledge and sympathy, but need not necessarily have any intimate connection with the management or assume direct responsibility

The chief duties to be performed by the official staff

660 A The Royal Commission on Agriculture in general supported the recommendations of the Maclagan Committee on Co operation and added little that was new it however stressed a few points on which critics are apt to go astray The movement was initiated by a Government faced with the finding that Indian famines are necessarily recurring calamities and was intended to be a part of its anti famine policy This has resulted in three features characteristic of the movement in the Punjab and other provinces the movement is closely supervised by Government officers it has been chiefly developed in the rural areas and it has been concerned more with the organisation of credit than with other needs of the people The Royal Commission accepted the position that the ' movement must, in the main, continue to be directed towards the expansion of credit societies until the burden of outside debt has been considerably eased Those charged with its direction are fully alive to the advantages to be gained from the application of the co operative principle in directions other than credit But their most important duty must, for many

years to come, be that of developing a rural credit system covering the whole field of village life, and we think it should be left to their unfettered judgment to decide what part of the resources at their disposal should be directed towards the extension of the non credit movement

The main function of the official staff is to train the members of societies to manage their own affairs without outside interference or assistance, but practical considerations render necessary some degree of audit inspection and supervision The assistance of non official workers is essential and is always welcomed but the Royal Commission, in view of the many and serious defects which had been brought to their notice, recommended that every effort should be made to build up a highly educated and well trained staff of officials 'Its chief duty is to educate members up to the point at which they will be competent themselves to undertake its duties and so to dispense with its services, to strengthen the hands of the honorary workers by furnishing them with skilled advice and guidance in the more difficult problems, to supervise the work of unions and federations engaged in the management and control of the movement, and to work out new schemes to facilitate the work of other departments, to prepare the ground for their special propaganda and to organise the people to receive and adopt expert advice

Government aid to the co-operative movement

660 B The Royal Commission made definite recommendations on the subject of Government aid to the movement We think that local governments should encourage the enlistment of honorary workers by contributing towards their out of pocket expenses, both while they are under training and whilst they are working in the field

Public funds may also reasonably be spent in assisting institutions whose object is to spread education in the application of co operative principles to various objects and also in assisting unions for supervision We found that Government aid was usually given for propaganda work and we approve this In considering the prevailing illiteracy and the consequent difficulty in reaching the people by paper or pamphlet we think that Government have a special interest in promoting organisations on a co operative basis to facilitate the activities of the agricultural, veterinary educational and public health departments *and that assistance should therefore be freely given to* ventures of a novel nature The Royal Commission further recommended that Government expenditure should be devoted to education in preference to audit

In general the Punjab movement conforms to the various recommendations mentioned above

Organisation ... from Government.

660 C The question of organising land mortgage banks on a co operative basis has received — ... not yet been sufficient expe ... a tentative policy has been ... a year with the aid of loans from Government The recommendation of the Royal Commission on this difficult subject have been adopted

and the banks are registered under the Co operative Societies Act. These institutions can at present only be regarded as in the experimental stage and great caution must be exercised in advancing loans to people whose appetite for credit is greater than their readiness to make the personal sacrifice necessary to ensure repayment

Paragraphs 661 to 671 —*Cancelled*

CHAPTER XX

THE COURT OF WARDS

672 The duty of the State to make provision for the care of the persons and property of those who by reason of age, sex, mental incapacity or other causes, are unfit to manage their own affairs is generally recognised The Guardians and Wards Act, VIII of 1890, embodies the general law on the subject, and under this a competent court is empowered where no other suitable guardian can be found, to appoint the Deputy Commissioner to that office But where public interests are involved as in the case of a large landholder, or where the family is one of political or social importance, public policy necessitates a more specialised machinery, which is provided by the Court of Wards Act II of 1903 Action under this Act is regulated partly by statutory rules (Punjab Land Administration Acts, Volume II), and partly by executive orders issued in Financial Commissioners' Standing Order No 53 In the general interest of the administration of the province it is desirable that large landholding families should receive assistance from Government where that assistance can suitably be rendered In cases where the official machinery is not suited to manage the particular business, such as an industry or trade, it will rarely be to the advantage of the minor to be brought under the Court of Wards Such cases must be left to the Guardians and Wards Act

Object of Court of Wards

673 The considerations which lead the State to interfere in the case of landholders of vicious or spendthrift habits are those of public interest The law does not contemplate the putting of any restraint on a man s power of dissipating his property by vicious courses or the extravagant pursuit of pleasure, unless he belongs to a family whose political or social importance it is a matter of public interest to preserve In this respect it does not go as far as the French law, which permits the relations of any prodigal spendthrift to apply for the appointment of a judicial adviser, without whose "assistance" he is powerless to borrow money, to sell or mortgage his immovable property, or to bring a suit in court * Even in the case of great families it must be remembered that it is against the declared policy of Government to extricate them from debt by means of loans of public money In such cases Deputy Commissioners must not formally discuss with the persons concerned applications for the intervention of the Court of Wards, or initiate proceedings without first obtaining the sanction of the Commissioner And if ultimate resort to Government loans seems probable, reference should be made to Government for a decision of the question whether the political or other considerations are strong enough to warrant an exception being made to its general rule or policy

In case of vicious or spendthrift landholders, interference confined to families of political or social importance.

* The power which reversioners possess under the customary law of the Punjab to sue for the cancellation of the transfers of land made without necessity is a restraint of the same kind (see paragraphs 15 and 8 of this Manual)

Imperfection of law regarding Court of Wards contained in sections 34—38 of Act IV of 1872 and origin of Punjab Act, II of 1903

674 The old law concerning the Court of Wards contained in the Punjab Laws Act of 1872* was unsatisfactory and defective, but it was not until after the prolonged examination of the measures required to rescue the rural population from debt that Bills were prepared to deal with some aspects of this problem The Alienation of Land Act of 1900† was designed to meet the case of the mass of owners, and it was

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nder of this chapter

followed by a few remarks on some particular questions which arise in connection with the care of wards and the management of their property

675 *Cancelled*

Financial Commissioner Court of Wards for Punjab

676 By Act No II of 1903, the Financial Commissioner is declared to be the Court of Wards for the whole province But he can exercise all or any of his powers through Commissioners or Deputy Commissioners, to whom also they can be delegated by rules under the Act, or by general or special orders ‡

Only landholders can be made wards

677 To be made a ward a person must be a landholder, i e, he must possess an interest in land as proprietor, assignee of the Government revenue, lessee of waste land, or otherwise§

Classes of landholders who may be made wards by order of Financial Commissioner

678 The court may of its own authority declare the following classes of landholders to be its wards —

(a) minors, that is to say, persons below the age of eighteen ‖ A person who has been made a ward while still below that age, does not reach his majority till he is twenty one ¶ The Deputy Commissioner reports the cases of all minors who in his opinion ought to be made wards and likewise cases in which he himself has been appointed guardian of a minor under the provision of section 18 of the Guardian and Wards Act, VIII of 1890 ** The object of the report in the latter case is to enable the Financial Commissioner to decide whether the estate should not be brought under the Court of Wards,

(b) persons adjudged by a court acting under section 2 of Act XXXV of 1858 to be of unsound mind and incapable of managing their affairs†† The Deputy Commissioner may apply to the District Judge to institute the necessary enquiry‡‡

‖ Section 3 (c) of Act II of 1903 read with section 3 of the Indian Majority Act, IX of 1875

¶ Section 3 of Act IX of 1875 as amended by section 52 of Act VIII of 1890

** Section 7 (2)

†† Section 6

‡‡ Section II (4) see also section 3 of Act XXXV of 1858

679. The local Government may order the Court of Wards to take charge of the property of the following classes of landholders if it considers them incapable of managing their own affairs —

Classes of landholders who may be made wards by order of local Government

(a) Females,

(b) Persons suffering from any physical or mental defect or infirmity,

(c) Persons who themselves apply to be made wards;

(d) Persons who have been convicted of any non bailable offence, *and* are of vicious character;

(e) Persons whose habits of wasteful extravagance are likely to dissipate their property *

The court may at its discretion take charge of their persons also In the case of the third class action can only be taken, if it is considered "expedient in the public interest † in the case of the last two classes it is necessary that the landholder shall belong to a "a family of political or social importance and that the local Government shall be satisfied that it is desirable on grounds of public policy or general interest", to interfere ‡

680 A proposal to take anyone under the superintendence of the Court of Wards usually originates with the Deputy Commissioner of the district in which the whole or the bulk of the property concerned is situated but cases occur where the landholder applies direct to the Governor or the Member in charge In such cases, the application or proposal has to be sent to the Deputy Commissioner who acts as if it were his own The 3rd chapter of the Act gives him the necessary powers for making an enquiry and for the protection of the person and property of the proposed ward until sanction is received

Enquiry by Deputy Commissioner

681 A minor or an insane person may be released from wardship by the court at any time The concurrence of the District Judge is however, required in any case in which the Deputy Commissioner was appointed guardian of the minor before he became a Ward of Court § On releasing a ward who is still a minor the court may give him a guardian who will have the same rights and duties and be subject to the same disabilities as a guardian appointed by the District Judge under Act VIII of 1890 ||

Release from wardship

The property of a landholder who has been made a ward under the orders of the local Government cannot be released without its order, but the court may relinquish charge of his person at its pleasure ¶

682 The orders by which the Court of Wards assumes and relinquishes charge of the person or property of a landholder are published in the Government Gazette **

Publication of orders

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* Section 5 (2) (d)
† Section 5 (1)
‡ Proviso to section 5 (2)
§ Section 44
|| Section 47
¶ Section 44
** Sections 9 and 50

Provisions to meet case of joint owners

683 When the landholder declared to be a ward is joint owner of property with others the court may take charge of the whole property.* But, as will be shown hereafter, its power of dealing with such property is subject to restrictions Again, if a person who has ceased to be subject to its jurisdiction owns property jointly with another person who is still a ward, the court may retain the whole under its care † This is a very useful provision It obviates the difficulty which arose under the old law, when several brothers were wards and one of them was released from tutelage on attaining his majority When the court manages property not belonging to a ward it is bound to make over the surplus income to its owner ‡

Wardship may extend only to property

684 As already indicated the superintendence of the court may extend only to the property of the ward, or to both his property and his person §

Disabilities of ward.

685 A ward cannot purchase on credit, borrow money, or transfer his property by lease mortgage, sale, or gift|| He cannot make a will, adopt an heir, or give permission to adopt¶ He can only sue under the authority of the court** and he cannot be sued without the court being made a defendant,†† and without two months' notice having previously been given to the Deputy Commissioner ‡‡

Disabilities extending beyond release

686 A ward's disabilities do not in all cases come wholly to an end on his release A landholder, who was made a ward at his own request or as a consequence of his extravagant habits cannot, after his release from the superintendence of the court, make any transfer of his property for a term extending beyond his own life §§

Powers of court as regards ward's property

687. All property which the ward possesses in the Punjab at the date of the order by which the court assumes charge, and all property in the Punjab which the ward may subsequently acquire vests in the court, which, however, has discretion as to taking the superintendence of any property of the latter class not received by inheritance |||| The Act only extends to property in the Punjab, property owned by a ward in another province is not affected by its provisions If it be desired to secure the care of property owned by a ward in another province, the authorities in that province must be moved to take the necessary action under the local Act The court has for the time being all the powers of a landowner It can even sell the whole of the property, if it thinks that to do so would be to the ward's advantage ¶¶ Of course permanent alienation of any part of the ward's landed property is usually to be avoided But the sale of outlying or isolated portions of

* Section 8
† Section 46
‡ Sections 8 and 46
§ Sections 6 and 7
|| Section 15 (a)
¶ Section 15 (b)
** Section 20 (1).
†† Section 20 (2)
‡‡ Section 19
§§ Section 16 (1)
|||| Section 13
¶¶ Section 17 (1)

an estate as part of a scheme for the liquidation of debt may be sound policy The court cannot sell or mortgage the share of a joint proprietor, who is not himself a ward, or grant a lease of it for more than twenty years* A pension or assignment of land revenue belonging

Punjab Descent of *Jagirs* Act (IV of 1900), cannot be attached and are therefore of no value as legal security

688 The cessation of legal disability, or even the death of a ward, does not in every case free his property from management If still encumbered with debt it may, with the sanction of the local Government be kept under the charge of the Court till all the debts have been discharged ‡

Management may continue after death or release of ward

689 When the court has taken charge of the person of a ward it can fix his place of residence and in the case of a minor male ward has complete control of his education § This control has been delegated to Deputy Commissioners ||

Powers of court over ward's person.

690 To free an estate from a load of debt is too often one of the chief tasks of the Court of Wards The first step is to ascertain exactly what the liabilities are The 6th chapter of the Act provides a means of doing this promptly and effectually As soon as the court has taken charge the Deputy Commissioner publishes a notice calling on all creditors to present within six months their claims with the documents on which they rely for their establishment ¶ Subject to the provisions of sections 7 and 13 of the Indian Limitation Act, XV of 1877, claims not filed in time without reasonable excuse, of the sufficiency of which the Deputy Commissioner is
and executions against the w
until the plaintiff or the decr
has been duly notified ††

Ascertainment of debts

691 It is the duty of the Deputy Commissioner to examine into the truth of each claim and
of course disallow any sum
further to decide in cases in
rate of interest, if any, to be allowed in future, |||| and he may, if he thinks fit, rank the debts in the order in which they are to be paid, and

Deputy Commissioner must determine amount due and may rank the debts

* Section 17 (2)
† Section 8
‡ Section 45
§ Section 24
|| See paragraph 696 of this Manual
¶ Sections 26 and 27
** Section 29
†† Section 31 (2) Compare section 31 (3) barring fresh proceedings in execution
‡‡ Section 28
§§ Section 31 (1)
|||| Section 28

fix a date for the discharge of each * Debtors will often accept a composition favourable to the ward if, by doing so, they can procure a prompt settlement of accounts

Remedies open to creditor

692 The Deputy Commissioner's decisions are not subject to appeal, but they may be revised by the Court of Wards † No civil suit lies to set aside the order of a Deputy Commissioner ranking debts or fixing dates for their discharge But, if he has wholly rejected a claim or reduced its amount, the aggrieved party may bring a civil action, in which the Court of Wards will be a defendant, to impeach the correctness of the decision ‡ In such a suit no document which the plaintiff failed to produce before the Deputy Commissioner, though it was in his power to do so, can be received in evidence §

Appointment of tutors guardians, and managers

693 The 7th chapter of the Act provides for the appointment of tutors, guardians, and managers, and explains their duties and obligations Subject to the control of the court, a guardian has charge of the person of a ward, and a manager of his property ‖ It is often well to consult the friends or relations of a ward as to the choice of a manager, since a fit private person may sometimes be available In the case of large estates, however, where a specially competent manager is required, a Government servant should generally be selected In all cases, the interests to be considered are those of the ward, and not those of any friend or relation or other candidate for the post There is no reason why in suitable cases the two offices of guardian and manager should not be united in a single person A guardian can only be appointed for the care of a ward, who is a minor, or an unmarried female, or insane, or suffering from some physical or mental infirmity ¶ The next heir of a ward or a person immediately interested in outliving him cannot be his guardian ** If no guardian or manager is appointed by the Court, their powers are exercised by the Deputy Commissioner

Preliminary report and scheme of management

694 When a Deputy Commissioner has made up his mind that an estate should be brought under the Court of Wards he submits his proposals in a preliminary report, which is followed as soon as possible by a detailed scheme of management Orders on the subject will be found in paragraphs 4 and 5 of the Financial Commissioners' Standing Order No 33

Court of Ward's rate

695 (1) A rate is levied on the income of estates managed by the Court of Wards under the authority of section 8 of the Government Management of Private Estates Act (X of 1892) The income is intended to cover the cost of all ordinary Government establishments in so far as these have to devote part of their time to Court of Wards' business This of course does not include any staff recruited solely for the management of any estate or group of estates Such a staff is paid out of the income of the estate or estates which employ it The cess also covers the share of any contingent expenditure of Government

* Section 32 (1)
† Section 33
‡ Section 32
§ Section 30
‖ Sections 35 and 38
¶ Section 35
** Section 36

offices, which would otherwise be debitable to the Court of Wards. For the present the rate has been fixed as follows :—

(a) on gross income up to Rs 5,000 per annum, 5 per cent.;

(b) on the excess up to Rs 10,000 per annum, 2 per cent,

(c) on the excess over Rs 10,000 per annum, 1 per cent *

(2) (a) Loans transactions should be included in the Court of Wards' accounts for purposes of calculating audit fees and ward's rate

(b) The audit fee and the ward's rate should also be levied on the undisbursed items refunded to the estates

Education of wards

696 The education of wards of good family has always been a difficult problem There can be no question in these days as to the kind of knowledge to be imparted Men of family, if they are to maintain their position, must share in that familiarity with Western ideas and modes of thought, which is becoming the common property of all educated Indians But a young Indian leaving conservative home surroundings to receive such an education is very much in the position of a young Englishman in the sixteenth century faring to Rome or Padua to reap the fruits of the Renaissance We know what the result was in the case of our own countrymen,† and we need not wonder if similar disappointments often occur in modern India Yet the risks of home education are greater, and, though a boy's relatives commonly urge its advantages, there can in most cases be no doubt that their wishes should be overruled At best an Eastern home for a fatherless boy of good position and large means is not a school for the development of the manly virtues, at worst it means an *entourage* of women trying to keep him in the zanana, and of flatterers outside The general rule that has been laid down therefore is that, as far as possible, every ward of an age for other than primary education shall, if he is the son or near relative of a hereditary *darbari*, be sent to Queen Mary's College at Lahore as a preliminary to sending him to the Chiefs' College If the estate is too poor to bear the expense, or if there are any other reasons against its adoption, the circumstances should be reported to the Financial Commissioner when the ward has reached the age of 5 years, the lowest age at which boys are received at Queen Mary's College The *annual expenses of education at the Chiefs' College run to some Rs 2,400,* but it is often possible to arrange that the boy shall hold a scholarship. The fees paid by Wards of Court have now been assimilated to those paid by ordinary pupils at the College When education at the Chiefs' College is not practicable, and a private tutor is not employed, a ward should be sent to one of the Government schools ‡ For the reasons stated above private tuition is not usually to be recommended but the weak health of a ward or other special circumstances sometimes leave no choice in the matter Although the Court of Wards is not empowered to issue orders compulsorily directing the education of female

*P[illegible] January 1893, and paragraphs 33

wards the Deputy Commissioner should where possible satisfy himself that suitable arrangements are made Where funds admit and relations agree Queen Mary s College provide a very suitable education *

Investments in improvements

697 As the accumulation of large cash balances or of readily realisable securities merely provides a temptation to a ward on release from control, it is desirable that surplus funds should be employed on the improvement of the estate, and on bringing all buildings, etc , into a thorough state of repair The advantages to be derived from digging wells, tanks, embankments or drains should be carefully considered and all measures which the agricultural department can recommend for the improvement of the soil or for enhancing the security of the crops and the prosperity of the tenantry, should be carried out as funds permit Attempts should also be made to effect improvement of the cattle under the advice of the veterinary department It is not intended that estates under the Court of Wards should be run on model lines but whatever an intelligent and enterprising landowner would be ready to spend money on in his own estate may be an object of expenditure by the Court Where Government has provided a body of experts to advise on agricultural matters there need be little hesitation in taking full advantage of their advice to effect all promising improvements in the estate The Government of India have especially advised the liberal supply of advances to cultivators upon the ward s estate in the shape of either money, seed or cattle, on the security of long leases and conditional on the payment of enhanced rent † In fact the expenditure should be on objects on which a wealthy and thoroughly intelligent landowner living in the neighbourhood would be ready to spend money in the case of his own estate

In purchase or mortgage of lands.

698 Following the improvement of a ward s own estate, some investments in the purchase or taking on mortgage of lands which should, as a rule, be situated in reasonable proximity to the main estate It will often be found that the difficulties involved in the management of property situated at a distance from the managing centre, e g , in one of the canal colonies, are such as to render this form of investment inadvisable, but where these difficulties can be obviated, and auctions are advertised, proposals may be submitted for the purchase at auction of Government lands in the colonies Where the lands to be acquired are not the property of Government, it is essential to see that the vendor's or mortgagor's title is unimpeachable

It is to be observed that rule (II) under section 4 (3) of the Act, Part I, (*see page 93 of Volume II, Punjab Land Administration Acts*), gives the Deputy Commissioner power to execute and register instruments on behalf of the Court of Wards, but, before this power is exercised, care should be taken to see that the sale, mortgage or lease in question has received the sanction of competent authority Unde

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*See also paragraph 18 of Financial Commissioner s Standing Order No 33

† Government of India, Revenue and Agricultural Department resolution No 2771 79 dated 31st December 1891 Also see paragraph 27 of Standing Order No 33

rule (2) the Deputy Commissioner may himself fix the form of lease to be given in certain cases In other cases the form of instrument must be approved either by the Financial Commissioner or by the Commissioner * It is necessary to lay particular stress on the fact that on no account should loans be advanced in the interest of the borrower but solely, as laid down in section 17 (1) of the Act for the advantage of the ward Particular instructions in this respect are given in paragraph 31 of Standing Order No 33

699 The third form of investment is the purchase of Government promissory notes, but this is only intended to be a convenient course to be adopted pending the occurrence of an opportunity to invest in less easily realisable securities In the absence of any special reason to the contrary, all sums belonging to wards exceeding Rs 500 and not required for investments in improvements or in land or for current expenses should be invested in Government paper until some better investment can be secured †

In purchase of Government paper

700 The treatment of the tenants in an estate managed by the Court of Wards should be an example to neighbouring landowners Undue enhancement of rents must be avoided There is often more than a mere business relation between landowner and cultivator—as is testified to by the favourable rents which tenants not unfrequently enjoy—and it is inexpedient to reduce all to a uniform level, and to abolish privileges which the proprietor himself would wish to preserve A system of cash rents undoubtedly reduces the difficulties of management and renders accounts easier to keep, and Government in the case of its own lands almost invariably adopts a cash rent system But local circumstances and the custom of the estate must be considered

Treatment of tenants

The practice of putting leases up to competition is forbidden No estate can be let in farm without the sanction of the Financial Commissioner which will rarely, if ever, be given, as the practice leads to the rack renting of cultivating tenants and other evils connected with the employment of middlemen Government favours a policy of selecting suitable lessees and conferring on them a tenure of sufficient duration to offer an inducement towards the improvement of the land Short term leases induce a lessee to make the most out of the land while he can As already stated the grant of loans to tenants is a useful way of investing surplus funds, but tenants will not take *takavi* to carry out improvements unless they enjoy in some degree stability of tenure Section 18 (2) of the Act which makes covenants, entered into by the court binding on the ward, after the property has been released from superintendence, gives the necessary basis for the policy here set forth

In dealing with the subject of tenants it should be remembered that where the interests of both parties coincide, no efforts should be spared to foster these The use of pure seed, of improved implements, of manures and of good bulls are examples, and these deserve full encouragement Managers are apt to be somewhat slow to adopt any

* Rule (3) Part II of the Rules under section 4 (3) of the Act (see page 94 of Volume II Punjab Land Administration Acts)

† See also paragraph 30 of Financial Commissioners Standing Order No 33

1915 in Ambala and the still unlimited cattle grazing in both districts, the low hills have been reduced to a terribly eroded condition resulting in thousands of acres in the plains below being reduced to utter sterility

Plain forests and grazing lands

706 The plain forests which used to be found in the dry south western districts have, owing to the extension of canal irrigation practically ceased to exist, except in the great sandy tract between the Jhelum and the Indus known as the Thal The central uplands between the Sutlej and the Jhelum in that part of the province are known as the Bar They were with trifling exceptions recorded as State property at the first regular settlements Much of the soil of the Bar is excellent, only requiring water to make it of great agricultural value Left to itself it

have been effected in the Bar by the excavation of the great Punjab

tent their place as full reserves has been taken by irrigated plantations The Thal is less valuable from every point of view than the Bar Forest growth is scanty, but the country is naturally adapted for camel grazing

Sketch of executive and legislative measures taken for forest conservancy desirable

707 The extent to which Government asserted a title to waste lands in the early days of the administration of the Punjab is briefly explained in paragraphs 188—191 of the Settlement Manual It will be necessary to deal with the matter here rather more fully, but before doing so a short sketch of the executive and legislative action taken with a view to forest conservancy down to the passing of the Indian Forest Act (VII of 1878) will not be out of place

Measures taken by the Board of Administration

708 The curious dislike felt by the early administrators of northern India to State property in the soil* and their short sighted indifference to forest conservancy gave way to sounder views in 1849 When Lord Dalhousie in his famous despatch constituting the Board of Administration† ordered excess waste to be formed into Government estates

ing of the most

a new populati

addressed the Board on the necessity of preserving a supply of timber and fuel in the Punjab ‡ Their reply is interesting as embodying the first scheme of forest conservancy in this province They wrote —

> "3rd —The Board are fully alive to the importance of the ends in view, and they are glad to have the opportunity, afforded them by the Governor General, of bringing before the Government the question, not only of increasing the growth of timber, but of economizing the existing

* See paragraph 166 of the Settlement Manual.
† No 418 dated 31st March 1849 paragraph 60
‡ Government of India letter No 645 dated 18th February 1851

produce for the future wants of our large cantonments, for the steamers, which may hereafter ply, and for the inhabitants of the country generally

" *4th.*—Although timber of large growth is very scarce, yet large tracts of country, throughout the Punjab, are covered with low thick jungle, more or less dense, which yields good wood for fuel This is the case in the centre of the Doabs, commonly called the Bar, and the same kinds of jungle trees are to be found in different other localities where the ground has fallen out of cultivation, or is altogether unsuited for it owing to its broken and raviny nature The Board have ascertained that near our large cantonments the supply of wood has, in several instances, been nearly exhausted by the demand made for fuel for burning bricks and lime, and for the troops and camp followers; and, unless immediate measures are taken, they fear that the future supply, within any reasonable distance, will be impossible They have ascertained that the jungle wood generally is reproducing, and that the wood cut down will be fit in two years to be cut again

" *5th.*—The large cities and towns in the Punjab have hitherto *been supplied with wood, cut from the Bars or jungles,* convenient to their respective localities The population of the country is rapidly on the increase, and cultivation spreading, moreover, the demand for fuel for the large cantonments and public works, now under construction throughout the Punjab, as also for the large masses of troops cantoned in the country, is enormous, and the persons who supply wood find it more convenient, as well as more profitable, to stub out the roots of the trees near at hand than to go to a greater distance for the standing tree Hence reproduction is prevented, and the supply altogether fails, if the jungle is limited, or it is daily removed to a greater distance

" *6th*—The Board would, therefore, propose, with the sanction of Government, to select certain tracts of country, if possible unculturable, covered with low reproducing jungle, as near as may be convenient to the large cities, cantonments, and rivers (they mention rivers in view to the future supply of steamers), and to place these jungles under proper surveillance, so as to prevent trees being grubbed up by the roots The wood should be cut about one foot from the ground, and no lower A small tax sufficient only to pay the cost of a few watchmen to protect, and, if necessary, renew the trees, might be levied for cutting the wood, by this plan the Board would hope to economize it and prevent its being totally destroyed, the local agents in each district being charged with the care of it

" *7th.*—The above general remarks refer to wood in the plains; but the Board understand that the ranges of hills from

Government of India orders local rules to be drawn up

711. The Governor General remarked—

"To any one accustomed only to European rights and regulations the general powers regarding forest trees which are assumed in these rules to belong to the Government would appear to be of an arbitrary character But His Honour in Council believes that no question will be raised in this country as to the validity of the manorial right thus asserted for the Government in the hill districts, while certainly no person at all acquainted with the local wants of the districts referred to will question the existence of such a public exigency as would call for the assertion of the right ' He therefore accepted the rules ' as far as they go But they were considered so general and not likely by themselves to do much good, and each Commissioner was to be directed to draw up a set of rules "adapted to the peculiar circumstances of his division, * * * * and to report without delay to you for the final sanction of the Government of India the several steps which he has taken *

Rawalpindi rules of 1856.

712 *In July 1856 the Commissioner of the Jhelum division* submitted rules† for the hilly and mountainous portion of the Rawalpindi district The first of these rules is the most important It ran—' In the mountainous and hilly portion of the Rawalpindi district all trees and shrubs of spontaneous growth are hereby declared to be the property of Government They are available, as far as they are really required by the villagers, for domestic or agricultural purposes, but with this exception, may not be cut or appropriated by any person without the permission of the civil authorities This rule, however, is to be liberally construed as regards the comfort and convenience of the villagers ' Permits were required for felling trees and cutting brushwood, and fees were charged in both cases Firing was restricted and regulated One eighth of the income from fees was to be paid to the village landowners to ensure their co operation in enforcing the rules, to any breach of which a penalty of a fine not exceeding Rs 100 was attached

Hazara rules of 1857.

713 *In January 1857 the Chief Commissioner* sanctioned rules for the management of the Hazara forests Their chief provisions were—

(1) that no trees, large or small, could be cut without permission ,

(2) that all except agriculturists should pay fees for the wood they were allowed to cut, half the proceeds being used to meet the cost of forest conservancy, and half paid to the landowners ,

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* Paragraph 7 of Government of India, letter No 1780, dated 21st May 1855

† No. 123 dated 24th July 1856 See Forest proceedings for March 1876 The rules were sanctioned in a letter of the Chief Commissioner No 1623, dated 4th August 1856. They were cancelled in 1903, (paragraph 749)

(3) that ground should not be cleared of trees with a view to cultivation without leave being first obtained from the Deputy Commissioner;

(4) that firing of grass in the vicinity of forests was forbidden.

These rules were imperfectly enforced, but even so they proved very useful *

Kangra and Hoshiarpur rules.

714 In 1859 Major Lake, the Commission r of the trans Sutlej States, submitted rules which Mr Bayley, Deputy Commissioner of Kangra, had prepared for that district, and suggested that they should be adopted with certain modifications These were sanctioned by the Lieutenant-Governor, and permission was given to extend them to the Hoshiarpur district This was done by the Commissioner of Jullundur next year He remarked—" The right of Government merely extends to the timber The right of grazing and to the spontaneous products of the forest appertain to the *zamindars*, subject to the restriction prescribed in the rules "

At the same time he pointed out that some forests in Hoshiarpur were the exclusive property of Government †

The rules forbade the felling of trees without permission of the Deputy Commissioner, but in the case of inferior kinds of trees required ' *bonâ fide* for agricultural purposes," the permission of the village headman was to be sufficient Proprietors of land and hereditary cultivators were entitled to cut whatever timber they required for building or agricultural purposes on paying a fee of four annas, while trees unfit for use as timber, but fit for fuel or fodder, were to be given free of charge Persons having an ancient right to graze, gather dry wood, or collect leaves for manure were to be still entitled to these rights But a third part of each forest might be closed entirely for three years or any less period. Firing was forbidden Annual licenses were to be taken out by wood cutters and charcoal burners One-sixteenths of the receipts was to be paid to the forester, and three-sixteenths were to be divided between the *lambardar*, the *patwari*, and the village community ‡

It will be observed that rights of user (*bartan*) were clearly recognized as belonging to the landowners living in the neighbourhood of the forests

Taking up of alluvial lands for forests.

715. In 1855 the Chief Commissioner drew " the earnest attention " of Commissioners to a scheme proposed by Mr. Edward Thornton for extending plantations of useful timber trees by appropriating portions of alluvial lands newly thrown up by rivers § Such lands are

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* Paragraph 38 of chapter V of Captain Wace's Settlement Report of Hazara,—see also paragraph 720

† Extracts from the correspondence printed on pages 370—375 of Barkley's " Non-Regulation Law of the Punjab "

‡ See rules 4, 5 7, 19 20 and 27 For the full text of the rules see Barkley's " Non-Regulation Law of the Punjab," pages 375—378 They were not sanctioned by the [illegible] probably [illegible] vernme [illegible]

well suited to plantations of *shisham* trees like that at Shahdara near Lahore

Conservator of Forests appointed

716 In 1864, Dr J L Stewart became the first Conservator of Forests in the Punjab In 1869 he published a useful book on ' Punjab Plants "

Act VII of 1865

717 The first " Government Forests Act ", (VII of 1865), was intended to enable local Governments with the sanction of the Governor General in Council to issue rules having the force of law like those described above * A local Government might notify any land covered with trees, brushwood, or *jangal* to be a Government forest, but no existing rights of individuals or communities were to be abridged or affected thereby † Forest rules for Rawalpindi were issued under this Act in 1873

Section 48 of Act IV of 1872, (The Punjab Laws Act)

718 The Punjab Act, VII of 1865, was supplemented by section 48 of Act IV of 1872, which provided that ' no person shall make use of the pasturage or other natural product of any land being the property of Government except with the consent and subject to rules prescribed by the local Government

By section 50 of the Act such rules required the sanction of the Governor General in Council, but existing rules were to be deemed to have been issued under and in conformity to that section

Defects of Act VII of 1865.

719 Act VII of 1865 was very unsatisfactory to the advocates of a proper system of forest conservancy Its main defects were that " it drew no distinction between the forests which required to be closely reserved, even at the cost of more or less interference with private rights, and those which merely needed general control to prevent improvident working It also provided no procedure for enquiring into and settling the rights which it so vaguely saved, and gave no procedure for regulating the exercise of such rights without appropriating them It obliged you, in short, either to take entirely or to let alone entirely "‡

The Hazara forest regulations.

720 Indian legislation like justice, has a limping foot and the case of Hazara, which came under settlement in 1868, could not wait on its leisurely progress Accordingly special forest regulations for that district were passed in 1870 and 1873 under the authority of Act 33 Vict , Cap 3 While the general system of forest management in force under the rules of 1855 was maintained these regulations directed that, due provision having first been made for the ordinary wants of the villagers in whose bounds the forests stood the more valuable forests should be reserved for the benefit of the public at large Rather more than one tenth of the whole waste area of the district, which then exceeded 2,200 square miles, was demarcated as reserved forest, and made over for management to the Forest Department These

* Sections 3 to 6 of Act VII of 1865

† Section 2 of Act VII of 1865

‡ See Mr Hope's speech in the Legislative Council on 6th March 1878 quoted on page 100 of ' Forestry in British India. '

State forests are mountain forests of pine and *deodar* situated in the higher hills But it was impossible with due regard to the interests of the landowners to reserve all land yielding timber trees, while at the same time it was essential to prevent waste The unreserved forest lands in the higher ranges and the fuel forests in the lower hills in the west of the district were, therefore, treated as "village forests"* The Hazara district has never been subject to the General Indian Forest Act, VII of 1878, and before describing its provisions it will be convenient to finish the history of the Hazara forests Regulation II of 1878 was replaced by Regulation II of 1879 By the 8th section the Deputy Commissioner was given large powers of setting apart waste lands as "village forests" Within such forests squatting and the clearing of land for cultivation the removal of soil or dead leaves, and the kindling of fires, were wholly forbidden But the Deputy Commissioner could give special permission for the firing of lands producing only grass † Felling of trees the lopping of trees for fodder lime and charcoal burning, and grazing, were to be regulated by general management orders issued by the Deputy Commissioner from time to time under the general instructions of the local Government ‡ Joint responsibility of village communities, especially in the matter of fires, in the case of forests of both classes was enacted § Illicit firing and illicit cultivation might be followed by suspension of all rights of user in the lands burnt or cleared for a period of two years or for such longer time as might be required to restore the lands to their former condition ‖ Special powers were given for the protection of land from erosion and the prevention of landslips ¶ In 1882 Mr Forrest of the Forest Department was entrusted with the work of demarcating village forests, locally known as *mahdi da* The result was that 147,000 acres were set apart for the purpose, but the demarcation was not satisfactory, for numerous plots of cultivation were included A revised demarcation was made at the resettlement of the district, and the area of the village forests had been reduced to 83,782 acres, all uncultivated At present these forests are managed in accordance with the provisions of Regulation VI of 1893 which replaced Regulation II of 1879 and of rules issued under it The rules are contained in Government of India notification No 2212 G dated 22nd December 1903 The breaking up of land without the permission of the Deputy Commissioner is forbidden Right holders are entitled to timber free of charge for their own domestic and agricultural requirements, but notice of intention to fell must be given They can also utilize for fuel without restriction dry wood and brushwood But the sale of trees and of fuel to outsiders requires the sanction of the Deputy Commissioner

The Indian Forest Act, VII of 1878.

721 The late Mr Baden Powell a Punjab Civilian, who was Conservator of Forests from 1869 to 1872 and from 1876 to 1879, and

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* Captain Wace s Settlement Report of Hazara, pages 134—37

† Section 16

‡ Sections 14 15 of Act VII of 1865

§ Section 28, compare also section 24

‖ Sections 29-30 of Act VII of 1865

¶ Sections 20-21 of Act VII of 1865

who officiated as Inspector General throughout 1873 and part of 1874, helped largely in putting forest legislation in India on its present basis * In 1878 the Indian Forest Act was passed This Act has been amended from time to time, but finally in 1927 a new Forest Act, XVI of 1927, was passed and now takes the place of the original Act It merely consolidates the various amendments made and removes certain ambiguities contained in the old Act, but makes no radical changes in the policy laid down in that Act.

This Act permits the local Government to constitute "any forest land or waste land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled, a "reserved" or a "protected" forest "† It is sufficient, therefore, that the State should own the trees or some of them, even though it may have recorded the soil, as was imprudently done in the case of Kangra, as belonging to village communities

Reserved forests.

722 Chapter II of the Act deals with "reserved" and chapter IV with "protected" forests Reservation must be preceded by a forest settlement in which a full enquiry is made into all private rights claimed or otherwise discoverable ‡ The instructions at present in force in the Punjab regarding the conduct of forest settlements will be found in appendix II When once a forest has been notified as reserved no further private rights can grow up § A reserved forest can only be disforested with the previous sanction of the Governor General in Council ||

Protected forests.

723 No special forest settlement is required before notifying waste land as "protected forest" But Government must be satisfied that the nature and extent of the rights of Government and of private persons in the land have been enquired into and recorded at a survey or settlement or in such other manner as it deems sufficient An *ad interim* order may be passed to protect the rights of Government pending the preparation of a proper record ¶ By declaring waste to be "protected forest" the future growth of rights is not prevented When land has been notified as reserved forest many acts regarding it at once become criminal ** But a notification of a protected forest to be effective must be followed by action under section 30, which enables Government—

(a) to declare any trees in a protected forest to be reserved ;

(b) to close portions of the forest from time to time, and suspend the exercise of private rights, "provided that the remainder of the forest be sufficient, and in a locality

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* "Forestry in British India," page 116 He was the author of a book on "Forest Law" published in 1893.

† Section 20 and 29 } of Act XVI of 1927.
‡ Sections 6 and 7
§ Section 23
|| Section 27 (1)
¶ Section 29
** Section 26

reasonably convenient, for the due exercise of the rights suspended",

(c) to prohibit quarrying, lime and charcoal burning, removal of forest produce, or clearing of the land for any purpose

Rules for the management of protected forests may be made,* and a breach of any of these rules and the doing of any act forbidden under section 30 are criminal offences † Where the choice lies between action under chapter II or chapter IV, the former should ordinarily be preferred There is no reason why the management of a reserved forest should be one whit more rigid and less considerate of the needs of the surrounding communities than that of a protected forest Nothing prevents Government from allowing as privileges, to be revoked in case of abuse, the enjoyment of forest produce to which no actual right has been established ‡

Interference in case of privately owned forests.

724 The Act recognizes the fact that occasions may arise in which it is necessary to interfere with the use, or even to assume the management, of privately owned waste land for the good of the public in general Reasons for such action are the prevention of the spread of ravines, the protection of land from erosion or deposits of sand and boulders, the maintenance of the water supply in springs or streams, and the like §

Assertion of State a title to excess waste

725 Having sketched the history of the executive and legislative action of Government as regards forests down to the passing of Act VII of 1878, it may now be well to retrace our steps and to show how the claims of the State to excess waste have been dealt with in different parts of the province, and what use has been made of waste over which Government has asserted any sort of title

Claims as a rule foregone in eastern and submontane districts.

726 Speaking broadly, in the plains and submontane districts east of the Beas and Sutlej Government admitted that the whole of the waste belonged to the adjoining village communities Little use was made of the provisions of section 8 of Regulation VII of 1822 || This is equally true of the districts of Gurdaspur Sialkot and Amritsar lying to the west of the Beas The reason was twofold In the first place the villages lay much closer together than in the west of the Punjab, and the proportions between the cultivated and uncultivated areas were very different In the second place the districts were for the most part settled before the advantages of keeping part of the soil of a country in its natural state were fully understood Even in Karnal, where Government did take possession of excess waste, and in Sirsa where much unoccupied land was at its disposal, the sole object of the administrators of the day was to get rid of the land as fast as possible by handing it over to any one who would bring it rapidly

* Section 32 of Act XVI of 1927

† Section 33 of Act XVI of 1927

‡ See paragraphs 22—27 of appendix II

§ See chapter V of Act XVI of 1927

|| See paragraph 187 of the Settlement Manual

under cultivation.* But in 1813 a large tract of village land near Hissar, deserted 30 years before in the terrible *chalisa* famine,† was appropriated as a Government *bir*. This in time became the Hissar Cattle Farm. It was notified as a reserved forest in 1887.‡ Government therefore possesses few fuel or fodder reserves east of the Beas and Sutlej. Even the low hills of Gurgaon and Delhi were included in village boundaries, though those of the former might probably have been clothed with valuable forests of *dhak*.§

The Hoshiarpur Siwaliks

727. The same mistake was made with deplorable results in the case of the Hoshiarpur Siwaliks. Government owns two *chir* pine forests in the Sola Singhi range|| and two bamboo forests at the north-west corner of the Siwaliks, and *chir* trees, wherever found, have been claimed as the property of the State. But here, as in Kangra and the hill tract of Gurdaspur, the first settlement officer, Mr. George Barnes, included the land of the forests, with the above mentioned exceptions, in village boundaries.

Effects of denudation of Siwaliks on cultivated lands in the plains

728. A generation later the effect of the denudation of the low hills, which inevitably resulted from the policy then adopted, on the rich *Sirwal* tract of Hoshiarpur and Jullundur had become so great that the matter was forced on the attention of Government. The Deputy Commissioner, Mr. Coldstream, and the Conservator of Forests, Mr. Baden Powell, united in urging the necessity of prompt remedial action, and the Commissioner of Jullundur, Mr. Arthur Brandreth, strongly supported them.

Mr. Brandreth's presentation of the case

729. His graphic description of the effects of neglect is worth quoting :—

> "The lower Siwalik * * * * is a long low range of sandy hills which stretch across the whole of the Jullundur Doab, forming the northern boundary of that fertile and productive tract. In the days of the Rajas, when the village common was the property of the Raja or lord of the manor, and not made over to the peasantry, these hill slopes were covered with a low stunted brushwood with a few trees here and there. * * * * This manor forest growth was not of great value to the Rajas or to their successors, the Sikh *kardars*, but it yielded a sort of cover for game, and was consequently generally protected, and as the towns were not then very wealthy and peasantry had hard enough work to produce the heavy revenue then

* For the leased estates of Karnal, see paragraphs 106, 109, 112 of the Karnal Ambala Settlement Report. For the Sirsa estates, see paragraphs 253—258 of Mr. Wilson's Settlement Report of Sirsa.

† This famine occurred in 1783 (Sambat 1840).

‡ See paragraphs 114-15 of Mr. Anderson's Settlement Report of Hissar.

§ [illegible] tal of Eastern Bengal is supposed by some to be derived from the *dhak* tree.

|| Punjab Government Forest proceedings, No. 6 A of June 1873.

demanded, there was little demand for fuel, and few persons with leisure to cut it

" * * — * * *

"The stunted brushwood had, however, once great value It covered the sandy soil by its roots and by the grass which grew in its shade The cool air from the shaded hillside arrested the passing clouds and produced a constant and almost regular rainfall, which, checked by the leaves of the brushwood and grass, poured down the hillsides at a gentle pace, and, bringing with it all the soluble products of the decayed leaves and grass spread its wealth-laden waters over the plains below, which thus became so renowned for their fertility as to be known as the garden of the Punjab

'The scene now is far different

' * * * * * *

'The hillsides were divided among the villages located on the hills, and the whole brushwood and minor forests declared to be their property village common open to every one

"With the introduction of English rule, towns increased, wealth and property abounded and the cessation of the continual demand for forced labour created a class of labourers with abundant leisure, and in search of employment With the increasing wealth arose increased wish for comfort, and a large demand for firewood of all sorts consequently soon sprung up, and the unemployed class found the brushwood and low *jangal* of these hillsides a mine of wealth open apparently to every one With our large public works and railways the demand increased still more, and the hillsides were consequently in a few years stripped of everything that could by any possibility be used for firewood Where the distance from the towns was too great the still more destructive charcoal burner appeared on the scene and consumed three times the amount needed to render his firewood portable It might be supposed that the new proprietors would have taken some steps to protect their *quasi* forests, but the sense of proprietorship was new, and they were in doubts how far they were entitled to interfere Most of the labourers and wood cutters were residents of their own villages, and what is everybody's business is nobody's business, and consequently none of the former copy holders now all become joint owners endeavoured to check this waste, indeed, on the contrary, they rather encouraged it Many persons paid them some little sum for the rights of cutting, and the charcoal burners generally paid Rs. 2 or Rs 3 for a year's license They could not be

expected to consider the future loss to their children, still less to care for the villages below the hills, which were slowly being ruined

"Yes, I may almost say ruined, the injury is so great and so increasing As the bare hillsides have replaced the green forests, the heated air of the dry sandy soil drives off the rain clouds to pass on to the upper ranges When, owing to the increasing pressure of the clouds, rain does at last fall * * * the condensation produced by its fall on the heated soil produces * * * a great downward rush on the heavily laden upper air, and the * * * late rain soon descends in torrents The fall is no longer arrested by leaves and brushwood and grass, and the increasing torrent pours rapidly down the sandy slopes, bearing with it thousands of tons of sand instead of the fertilising deposits of former days These vast floods spread themselves over the village below, tearing away all the fertile fields which formerly lined the edges of the stream and covering the rest of the country with a deep sandy deposit For the first few years this sandy deposit was not so very injurious It was fresh soil and still held a good deal of the decayed roots of the grass and brushwood of the former vegetation Moreover, a thin layer of sand is often a great protection to an Indian soil, it protects and supports the young and tender plants, and enables the soil below to retain its moisture for a long period But gradually the tale became very different Constant reports of deteriorated crops and distressed villages and tenants unable to pay their revenue replaced the uniformly prosperous report of former days, traffic and trade was checked by the great development of these vast sandy beds, which intersected all the main roads, and further demands for remission began to pour in from villages beyond the action of flood but whose fields were being buried by the masses of dry sand brought from these torrent beds by the wind storms of the hot weather Nor was the injury confined to the agricultural peasantry only The increased volume of waters thus suddenly brought down soon carried away the bridges sufficient for former times, and compelled a speedy extension of waterways and further expensive bridging both on the Grand Trunk road and the railway, and when even these proved insufficient the waters submerged the country far and wide * * *"

Results of delay in taking action.

730 The picture is highly coloured, but it can hardly be said to be exaggerated Soon after in reporting on the assessment of the Hoshiarpur tahsil Captain J A L Montgomery pointed out that, owing to the destructive action of the *chos* or sandy torrents issuing from the

Siwaliks, cultivation had decreased by 12 per cent in 30 years.* As we shall see, action was greatly delayed, and things went from bad to worse. In 1897 the Financial Commissioner wrote :—

> "*During the last period of ten to twelve years on account of the* action of the *chos* in Hoshiarpur and Jullundur 16,650 acres of land have been converted into *cho* beds, or have totally lost their productive power, while 23,260 acres in addition have been damaged. Government has remitted Rs 11,855 land revenue, and has in addition suffered or is about to suffer by reductions in the rent rolls of the two districts an annual loss of Rs. 34,719 land revenue, while the people have lost at a low estimate over 20 lakhs of rupees in the market value of their lands." †

Land Preservation (Chos) Act, II of 1900.

731. It is needless to tell the story of the causes which led to a case which was urgent in 1877 not being finally dealt with till twenty three years had elapsed. At last in 1900 an Act was passed for the better preservation and protection of the Siwaliks and the lands affected by the *chos*, (Punjab Act II of 1900). Its 3rd section empowers the local Government to put the provisions of the Act in force in any local area "situate within or adjacent to the Siwalik mountain range or affected or liable to be affected by the deboisement of forests in that range or by the action of *chos*."

Chief provisions of the Act.

732. With respect to any notified area the local Government may regulate, restrict, or prohibit—

(*a*) the clearing of land for cultivation not ordinarily under cultivation before the publication of the notification under section 3 ;

(*b*) stone quarrying and lime burning at places where they had not ordinarily been carried on before such publication,

(*c*) the cutting of trees or removal of any forest produce other than grass, save for *boná fide* domestic or agricultural purposes ;

(*d*) the setting on fire of trees or other forest produce,

(*e*) the pasturing of sheep or goats.‡

(*a*), (*c*) and above all (*e*) are important. Quarrying and lime burning have never been much practised in the Siwaliks, and firing is hardly known. All these acts have been forbidden over a very large area by notifications issued in December 1902.§

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* [illegible]

† Paragraph 18 of Financial Commissioner's letter No. 541, dated 1st September 1897.—Forest Proceedings, No 14 of April 1898.

‡ Section 4 of Act II of 1900.

§ Notifications Nos. 643 and 644, dated 12th December 1902.

scheme of management under the rules of 1855 The demarcation was to be made jointly by a civil and a forest officer The civil officer chosen was the late Mr A Anderson, who afterwards made the forest settlements of Kangra, Kulu, Lahul and Shahpur Kandi *

Decision to make the forests "protected forests"

740 It was decided in 1883 that it was impossible to continue to manage the Kangra forests under the rules of 1855 and 1859, and that procedure under chapter II of Act VII of 1878 was ' unsuitable to a large tract of country, of which the proprietary right in the soil belongs to the *zamindars*, and Government has only the subsidiary and ancillary right to the trees and power of a limited kind to control their conservancy † It only remained therefore to use the provisions of the Act relating to protected forests and notifications were issued under section 28 of that Act, appointing Mr A Anderson to enquire into and record ' the nature and extent of the rights of Government and of private persons ' in the forest and waste lands ‡

Nature of the Kangra forest settlement.

741 The questions involved in this very difficult forest settlement were not finally decided till 1897 The arrangements adopted were on the same lines as those followed some years later in Shahpur Kandi The small areas demarcated by Mr Duff in 1874 and 1875 continued to be reserved forests As regards the remaining waste in the estates out of which these reserves were carved, rules have been issued under section 75 (*c*) of Act VII of 1878 for the preservation of the trees which belong to Government § The rest of the waste in Kangra has been declared protected forests,‖ and for them records of rights have been drawn up Notifications under sections 29 (*a*) and (*b*) of the above Act have declared certain trees in the protected forests to be "reserved,' and considerable areas, including the former *trihais*, have been closed against the rights of private persons for twenty years ¶ Lastly, rules have been issued under section 31 to regulate the exercise of the rights admitted by the record of rights **

In 1917 a revised Working Plan was prepared under the orders of the local Government as it had been found in practice that it was impossible to apply the principle of the 1897 rules to all the protected forests owing to the fact that they included such land lying very close to villages which could not be closed without great hardship to the people The protected forests were therefore, divided into two classes termed " delimited ' and ' undelimited The former are to be closed piece by piece in rotation and the latter are not to be closed at all This division was carried out independently of the legal distinctions between demarcated ' and ' undemarcated Protected forests and the ' delimited forests contain parts of each class The difference between ' demarcated ' and ' undemarcated ' protected forests is that cultivation is absolutely prohibited in the former, but

* Forest proceedings No 3 of May 1880

† See paragraph [illegible] dated 20th July 1883 in Fores[illegible]

[illegible]

may be permitted in the latter. In unclassed forests cultivation may be carried on without permission.

Forest of *jagirs* of Kangra Rajas

742 The trees in the forests included in the *jagirs* of the *jagirdar* Rajas of Kangra (except Lambagraon), belong to Government *

Forests in Kulu

743-A. In Kulu† Government as recorded owner of the waste had a freer hand than in Kangra, a fortunate circumstance as some of the finest *deodar* forests in the Punjab are to be found in that sub-division A much larger area was therefore reserved under chapter II of Act VII of 1878 ‡ But a great deal of the valuable *deodar* forest lay close to or intermixed with village lands, and in all waste which was easily accessible the owners and their tenants had extensive rights of user. The bulk of the waste in Kulu has therefore been dealt with in the same way as in Kangra, and declared to be protected forest of one of three kinds .—

(*a*) first class demarcated forest
(*b*) second class demarcated forest
(*c*) undemarcated forest §

The extent of rights of user to be enjoyed and the amount of regulation necessary differ for the different classes

Forests in Lahul

743-B. Lahul, though it is included in the Kulu sub division, has not been dealt with in the last paragraph. It is too cold to yield valuable trees in any great number, and, were it otherwise, it is too remote for their exploitation. The forest and waste lands are therefore protected solely in the interests of the people, though Government derives a petty income from outside shepherds who drive their sheep and goats into Lahul for pasture The only trees of any value are the birch, the pencil cedar, and the blue pine Seven small forests have been demarcated, and they with the rest of the waste have been declared protected forests ||

Forests in Simla hills

744 In the scattered patches of territory, except Kalka and Bharauli, of which the Simla district is made up, the rights of Government in the waste are the same as in Kulu There are a few small reserved forests of *deodar* and *kail* (blue pine), but these are burdened with extensive rights of user A moderate degree of protection is afforded to trees growing in the village waste, and fresh land cannot be broken up without permission The best forests in the Simla hills are in the Indian State of Bashahr, and these are managed for the Raja by the British Government, as are the forests of some of the smaller States

745 *Cancelled*

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* Forest Department proceedings, Nos 1—7 of September 1897
† Including Kulu proper, Inner and Outer Saraj, and Waziri Rupi
‡ Notification No 293, dated 12th May 1894
§ [illegible]
|| [illegible] ...llary notifications

History of mountain forests in Rawalpindi up to regular settlement

746 We have seen that the general rules issued in 1855 enabled the civil authorities in hilly districts to mark off any tract as a public preserve, and within its limits to prohibit various acts harmful to forest growth The local rules drawn up in 1856 declared all trees and shrubs of spontaneous growth in the mountainous and hilly portions of the Rawalpindi district to be the property of Government, with the proviso that they were to be available as far as they were really required by the villagers for agricultural or domestic purposes Provision was made for the issue on payment of fees of permits for the felling of wood and cutting of brushwood The firing of grass in a way calculated to harm the forests was forbidden A fine was attached to a breach of these rules* At the regular settlement of 1859—63, Major Cracroft explained to the people throughout the Rawalpindi district that "all waste lands were the property of Government, and that before closing the settlement such tracts would be demarcated" But he was unable to touch the mountain forests in the Murree and Kahuta hills

Rules of 1873.

747. In 1873 rules were issued under the authority of section 8 of Act VII of 1865 for the mountain forests of Murree and Kahuta and the hill *rakhs* in the other tahsils † The most important rules, so far as the former are concerned, are quoted below —

"*Explanation* —Nothing contained in these rules shall in anywise abridge or affect any existing rights of individuals or communities in respect of the lands to which the rules relate

"SECTION I —*Of the Murree and Kahuta forests, known as first class rakhs*

"I —The officer of the Forest Department authorised in that behalf by the Conservator shall select portions of the forest area not exceeding in the aggregate 30 per cent of the whole, and shall demarcate the selected portions by pillars or otherwise as he shall deem necessary.

"The portions so selected and demarcated shall thereupon be closed absolutely against all forest rights or privileges, and shall be called "Reserved forests"

"Provided that, if by the reservation of any tract, any community or individual, though not having any legal right, be, in the judgment of the Conservator of Forests put to special loss or inconvenience, it shall be competent for the Conservator to make suitable provision for the exercise of grazing and for the supply of fuel and timber (for domestic and agricultural purposes only), either in the reserved tract or in some adjacent tract conveniently situated

"II —The remaining portions of forest area, not being less than 70 per cent. of the whole, shall be called "Unreserved forests," and shall be open to all existing village communities, as heretofore, for the exercise, free of charge, of the following privileges only :—

(a) grazing or cutting grass for their own cattle,

* The full text will be found in Forest proceedings, No 1 of March 1870

† Forest proceedings, No 3 of November 1873

(b) cutting fuel for their own use,

(c) cutting timber or wood for their own domestic and agricultural purposes

'III.—In unreserved forests, land on which trees stand or a growth of young trees exists shall not be cleared for cultivation or for any other purpose except with the permission, in writing, of a forest officer duly authorised to grant the same

Explanation.—Such permission shall not be requisite for the clearance in order to cultivate land free from trees

'IV.—In unreserved forests, no person whatsoever shall be entitled to cut for sale or to sell fuel or timber, or to burn charcoal, lime, or *surkhi* kilns, except upon terms of paying the authorised dues to the forest officer on behalf of Government'

The first rule provided for demarcation But, as a matter of fact, no demarcation was actually carried out till the question of forest conservancy had been put on a sounder basis by the passing of Act VII of 1878, and a revised revenue settlement of Rawalpindi had been undertaken

State of things existing in 1882

748 The forest settlement was carried out by Mr F A Robertson, who thus described the state of affairs existing when he began his work in 1882.—

> 'No restriction whatever had been placed on grazing by the most destructive animals, and timber could be obtained by application to the tahsildar, and grants of trees were made with most extraordinary freedom and censurable carelessness by these officials The zamindars were not allowed to break up and cultivate forest lands without permission, but besides the fact that such permission was very easily obtainable, the restriction was one which was readily and systematically evaded, and plots of cultivation were accordingly met with in the very depths of forests and in most out of the way places, and the existence of these plots very materially added to the difficulties of our work'

The forest settlement, 1882—89

749 The final result of the settlement carried out in 1882—89 was as follows one hundred and fifteen square miles, comprising some of the best forest land, were gazetted as reserved forests * By far the larger portion of this area is free of all rights except rights of way and water, but in parts of some of the forests rights of free grazing, &c, were admitted † By a rule issued under section 14 (c) of the Act it was provided that not more than three fourths of the whole area of any of the reserved forests should be closed to grazing at one time ‡ This restriction was modified in 1916 when the area of reserved forests which could be closed was reduced to one-quarter

* Notification No 431 dated 27th October 1886

† Notification No 290 dated 11th August 1888

‡ Notification No. 257, dated 9th May 1888

Fifty seven square miles were notified as protected forests They, like the reserved forests, are the property of the State, but the are subject to much more extensive rights of user All trees of an value were reserved, and quarrying burning of lime and charcoal, and cultivation were forbidden † Rules under section 31 of the Act regulated the lopping of certain trees, and the removing of grass and fallen wood, &c, by right holders, and provided for the grant to them at a nominal rate of permits to cut timber to the extent of their own actual requirements They are also allowed to graze cattle, except camels, sheep and goats, in the forests over which they have rights ‡

In the remainder of the waste area of Murree and of the mountainous part of the Kahuta tahsil Government gave up all claim to the ownership of the soil but the trees were recorded as its property Rules for their protection were issued under section 75 of Act VII of 1878 §

Generally speaking, every resident in a village was allowed to cut, free of charge, the wood he required for agricultural or domestic purposes from trees growing on the common waste lands of his village, but he could not cut for sale Nor could he fell trees in order to extend cultivation without the license of the Deputy Commissioner By subsidiary rules of procedure framed by the Deputy Commissioner a permit was required even for the felling of trees for agricultural or domestic purposes

Murree and Kahuta forest conservancy rules of 1903

750 After the publication of the rules of 1889 much doubt was felt whether the rules of 1856 referred to in paragraph 712 remained in force These rules asserted the ownership of the State in all trees of spontaneous growth in the mountainous and hilly portion of the Rawalpindi district,' and they applied equally to State lands, common village lands, and separate proprietary holdings But in the revised settlement the title of the Government to trees in the separate holdings was not specifically asserted Nevertheless the rules of 1889 were treated by the local officers as applicable both to common and to private, i e, separately owned lands Difficulties arose as to the legality of this construction The Punjab Government ruled that there was no doubt as to the title of Government in the trees growing in private lands, and a notification, No 66, dated 9th February 1903, was issued under section 75 of the Forest Act which applied to all lands in the Murree and Kahuta tahsils, except reserved and protected forests and municipal and cantonment areas Felling for any domestic or agricultural purpose was allowed provided a permit was first obtained The breaking up of land for cultivation in a manner calculated to injure trees or timber "was prohibited, unless the Deputy Commissioner granted a permit, but it was added that such permits would be readily granted where the trees are not numerous and the ground is sufficiently level to give hopes of good crops being raised" The setting of fire to any trees, or without permission of grass or other

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* [illegible] 1887

† [illegible] 1887

‡ [illegible] 1887

§ [illegible] 1889

forest produce the combustion of which is likely to cause injury to such trees was forbidden The rules of 1856 and 1899 were cancelled * It was a mistake to make the rules issued in 1903 applicable to all lands in Kahuta for the State has never claimed ownership in trees in the plain villages of the Rawalpindi district and one half of the Kahuta tahsil is in the plains The only trees of spontaneous growth which it owns in the plain portion of Kahuta are the *chir* pines found in a few villages So far therefore as plain villages are concerned the restrictions imposed by the rules relate only to *chir* pines †

751 *Cancelled*

752 Some ten years later the original demarcation in Rawalpindi and Attock was revised under Major Wace s superintendence, and after the passing of Act VII of 1878 advantage was taken of its 34th section to gazette as reserved forests nine of the ten hill forests in Rawalpindi and Attock The enquiry into the rights of the large Kalachitta forest was not complete enough to allow of this course being followed and pending a proper forest settlement, it was made a protected forest ‡ The settlement was made by Mr F A Robertson in 1886 Seven forest blocks with an area of 84 square miles were declared to be entirely free of private rights except rights of way and water In sixteen blocks with an area of 64 square miles the ownership by the State is subject to rights of grazing enjoyed by the neighbouring villages on payment of light fees § Under the authority given by the rules of 1855 restrictions have been placed on the partition of waste and the sale of wood in villages in the foot hills in the north and east of the Rawalpindi tahsil, (notification No 79, dated 24th January 1907)

Hill forests of Rawalpindi and Attock

753 In 1879—1882 the demarcation of the forests in the Salt Range and elsewhere in Jhelum was carried out by Mr R G Thomson who has left an admirable account of his work in the VIIIth chapter of his report on the first revised settlement of the district ‖ Owing partly to the neglect of Mr Thomson s recommendations, the question of management had to be reopened at the second revised settlement The orders passed in 1901 are summarized in the 108th paragraph of Mr Talbot s settlement report ¶ To prevent hardship the boundaries of some of the reserved forests were rectified **

Hill forests of Jhelum and Shahpur

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*Revenue (Forest) proceedings, Nos 32—64 of July 1901, 16—23 of July 1902 5—9 of February 1903

[illegible]

5th edition

¶ See also Forest proceedings Nos. 1—8 of February 1901

** Forest proceedings, Nos. 5—29 of May 1902 Nos 7—17 of November 1902, Nos. 12—17 of December 1902 Nos 1—6 of October 1903 and Nos 1—9 of December 1903.

Mr J Wilson made a forest settlement of the Salt Range forests in Shahpur in 1894—1896 Certain areas were transferred to adjoining villages, and records of rights were drawn up and recommendations made for the grant or continuation of certain privileges * The basis of Mr Wilson s settlement was described by himself to be the policy laid down in the 4th paragraph of Government of India resolution No 22 F dated 19th October 1894 as to the treatment of ' forests, the preservation of which is essential on climatic or physical grounds † The objects to be kept in view, Mr Wilson remarked, were only two—

(1) by the reservation of the forest growth to protect the hillsides from destructive drainage so as to distribute the rainfall as gradually as possible on the lands below which are almost entirely dependent on the drainage of the hills for their productiveness , and

(2) to preserve grass and wood for the supply of neighbouring villages

These *rakhs* have been accepted by Government as a trust to be managed for the benefit of the neighbouring population and not in order to bring in a direct pecuniary profit or to supply a distant demand ‡

The same principles governed Mr Talbot s proceedings in his forest settlement referred to above

Hill forests in Gujrat

754 At the first regular settlement of Gujrat the central portion of the Pabbi Range was declared to be a Government forest Its area is about 39 square miles It was declared in 1879 to be a reserved forest by a notification issued under section 34 of Act VII of 1878 § The forest growth of the Pabbi hills consists of *phulahi* with a few *kikar*, *dhak* and *shisham* trees

Plain forests in the Punjab

755 The plain forests or *rakhs* of the Punjab have almost disappeared being given up for cultivation in the canal colonies , a few small and widely scattered rakhs remain in the Lahore and Multan districts where their only value is as village grazing grounds A very small number still exists in the Rawalpindi and Attock districts every year deteriorating owing to excessive grazing

These vast areas which formerly supplied firewood to places as far north as Abbottabad and Peshawar are now replaced by few irrigated plantations which are insufficient to meet the impending firewood famine

* See Forest proceedings Nos 36—66 of December 1897 Nos 1—4 of November

† See paragraph 778 *infra*

‡ This had been clearly recognized at a comparatively early period (see paragraphs 15 16 of the review of the report on the regular settlement of the Shahpur district by the Lieutenant-Governor Sir Donald Macleod, dated 27th August 1867)

§ Notification No 109 F dated 6th March 1879

756 There was no difficulty in dealing with the "Bars" in the dry south western zone The rainfall was so scanty that at annexation we found cultivation almost wholly confined to the river valleys and a narrow strip of land above these valleys in which water was sufficiently near the surface to admit of well cultivation The Bars consisted of great grazing grounds of the kind described in para graph 706 roamed over by nomad graziers and camel owners Here and there a deep well had been sunk to afford water to the cattle, and there were a few *quasi* permanent locations of camelmen known as *jhoks* and of graziers known as *rahnas* At the regular settlements Government claimed the ownership of this no man s land and asserted its title by levying fees for grazing.

The Bar tracts

757 As a grazing tract the Thal is far inferior to the Bar, it is treeless and has little scrub *jangal* growth of any value Writing of the 800,000 acres of the Khushab Thal Mr Wilson observed *

The Thal

"This desert tract forms a marked contrast to the level loamy soil of the Bar uplands on the other side of the Jhelum Although it appears to have a somewhat similar substratum of hard level soil its surface is covered by a succession of sand hills, one following the other like the waves of an angry sea There is hardly a tree in the whole tract, the natural produce consisting of scanty grass and stunted bushes of *lana* (*caroxylon fœtidum*), *bui* (*panderia pilosa*) and *phog* (*callingonum polygonoides*), all useful for goats and camels, and of *ak* (*calotropis gigantea*) and *harmal* (*peganum harmala*), which nothing will touch Between the hillocks the harder subsoil appears in strips and patches, which in favourable years produce good grass and repay the cost of rude cultivation At regular settlement about 1864 the population of the Thal was found to be only 14,907, living in 25 villages scattered over the tract They lived an almost entirely pastoral life, and owned about 3,500 camels, 16,000 cows and bullocks, and 60,000 sheep and goats The area under cultiva tion was only 4,862 acres or less than one per cent of the total area. The system adopted at regular settlement of reserving a portion of the waste for the State was much the same as that already described for the Bar, except that here, owing to the inferior character of the soil and rainfall, 10 acres of grazing ground were allotted to the villages for each head of cattle they possessed The result was that about 270,000 acres were declared to be State land, and the remainder, amounting to about two thirds of the whole Thal area, was allotted in proprietary right to the village communities" The huge Thal area of the Mianwali district was, previous to the formation of the North West Frontier Province, part of the Mianwali tahsil of Bannu and the Bhakkar and Leiah tahsils of Dera Ismail Khan. No final decision as to the respective rights of Government and the vil lage landowners was made till the regular settlements of these two districts were carried out Considering how little cultiva tion there then was in the Thal, the settlement was an extraordinarily liberal one Roughly out of twenty six lakhs of acres untouched by

* Forest Department proceedings No 26 of September 1893

the plough Government claimed eight * In the Thal of the Muzaffar garh district the State owns over 1½ lakhs of acres

758, 759, 760 — *Cancelled*

Rakhs in old Rawalpindi district

761 The plain *rakhs* of the old Rawalpindi district cover an area of about eighty thousand acres Most of them are in the western tahsils, which now form part of the Attock district A short notice of their *history will be found in the 19th paragraph of the Financial Commis* sioner s review of Mr Robertson s settlement report of the Rawal pindi district The latest orders about these poor *rakhs*, some of which contain no wood at all—while others show a scanty growth of *phulahi* and *karil* will be found in Forest Department proceedings Nos 25—33 of April and 1—6 of September 1907 They are mostly under the charge of the Deputy Commissioner, and are of the class which should be managed entirely in the interests of the neighbouring villages

762, 763 — *Cancelled*

Rakhs in Lahore

764 The same difficulty arose in an acute form in regard to the Lahore *rakhs* Most of the reclamations of waste lands in these *rakhs* were first made about the year 1852 when the Commissioner of the Lahore division, wishing to see all waste land in the Lahore district brought under cultivation as soon as possible issued an order that ' hopes should be held out to the cultivators that if they fully cultivate the land they would be treated as proprietors and that if they sunk wells the land would be assessed at *barani* rates only " Leases for cultivation were accordingly given upon very favourable terms, and security was constantly taken from the lessees, binding them to cultivate the land and not use it for grazing This policy was followed for a period of ten years, when, owing to the rapid extension of cultivation which had followed upon the opening of the Bari Doab Canal a change was made in the policy of Govern ment, and the Financial Commissioner directed that for the future all land given for cultivation in the *rakhs* should be given upon annual leases only * * * These orders were gradually acted upon between 1862 and 1869 In the latter year the rentals of the various *rakhs* were re assessed, and in 1870 the whole of them were handed over to the Forest Department In 1872, however, many of the *rakhs* were re transferred to district management From those which remained under forest management practically all the tenants were evicted In the *rakhs* re transferred to the Deputy Commis sioner the system of annual leases was continued * * * * Al though under the system of annual leases the tenure of each lessee was

* See paragraph 200 of Mr Thorburn s settlement report of Bannu, paragraphs 518—533 and 535 of Mr Tucker s settlement report of Dera Ismail Khan and para graphs 29-30 of Mr Lyall s review of the latter

nominally terminated each year, yet in general the cultivators managed to secure continuity of possession, and, if ejected from one portion of a *rakh* through their right to cultivate being sold over their heads, established themselves on other land in the same *rakh*. Of a large class of these tenants Mr Dane writes — "Tenants therefore who are the direct representatives of men settled on the land in this way by order of a Government officer, and who have since remained in continuous possession, have undoubted claims to be treated with consideration In many cases the tenants own no other land, and have founded villages and located themselves permanently in the *rakhs*, and, although by receiving annual leases they have admitted the right of Government to oust them at pleasure, their eviction would be a somewhat harsh and arbitrary measure"

The rights of the tenants in the Lahore *rakhs* were the subject of an elaborate report by Mr R M Dane in 1882, Sir Louis Dane in 1885, and Sir W O Clark in 1887, and final orders on the case were passed by the local Government and the Government of India in 1889 *

Fuel *rakhs* put under management of Forest Department

765 The construction of the railway from Multan to Lahore, which was opened in 1865, made the fuel supply to be drawn from the *rakhs* in the Lahore, Montgomery, Multan, and Muzaffargarh districts an urgent question In 1864 Dr J Stewart drew up an important report on the subject,† and in the same year the Forest

lower lands adjoining the Bar in which the *jand* (*prosopis spicigera*) or the *farash* (*tamarix articulata*) grew freely ‡ In the discussion which followed the policy first emerged of handing over to the stricter management of the Forest Department the fuel *rakhs* and keeping the rest under the looser control of the Deputy Commissioner § When *rakhs* are managed by the Forest Department it is usually desirable to notify them as reserved forests, but those incharge of the Deputy Commissioner can generally be left as "unclassed forests," by which is meant Government waste which has neither been declared a "reserved forest" under Chapter II nor a "protected forest" under Chapter IV of the Forest Act Of course a forest officer may be in charge of "unclassed forests" and a Deputy Commissioner of "reserved forests," and the limits of jurisdiction have often been re arranged The question is largely one of administrative convenience

* Forest proceedings Nos 1—2 of January 1884 9—10 of February 1885 7—9 of April 1888, 3—4 of May 1889 and 1 of August 1889

† See correspondence printed in Forest proceedings No 1 of 1894

‡ See pages 46 and 288 of Gamble's Manual of Indian Timbers. The *jand* yields far better fuel than the *farash*

§ The colonization of vast areas of Government waste in the south west of the Punjab as a consequence of the excavation of the Chenab and Jhelum Canals has greatly reduced the fuel *rakhs* managed by the Forest Department Proposals have been made in connection with the canal schemes to Land over large areas to the Department to be worked as irrigated plantations.

(9) *Cancelled*

(10) *Cancelled*

Forest officers to be consulted in certain cases

(11) The district forest officer will be consulted by the Collector with reference to all proposed alienations of forests or waste lands by grant, lease, or sale, and he will give such assistance in cases of this nature as the Collector may require, especially in the selection of the sites and determination of the boundaries of proposed grants No land, whether protected or unclassed forest or waste, the revenue of which is credited to the Forest Department, will be granted, leased, or sold until the consent of the Chief Conservator of Forests to its alienation has been obtained

This paragraph does not give the Forest Department authority to grant leases of unclassed forest land in regard to which the rules for the lease of waste lands* must be observed

Office and routine

(12) (*a*) The offices of district forest officers will, so far as possible, be located in or in the immediate vicinity of the Deputy Commissioner's office

(*b*) Formal official correspondence between the Collector and the district forest officer concerning matters dealt with by these instructions should be avoided as far as possible, written communications, when necessary, being carried on by the transmission of original files and cases under the same rules as apply to the transaction of business between a Collector and his Revenue Assistant

(*c*) The Collector may direct the district forest officer to file in the district record office such of the forest records as relate to forest settlements or revenue leases or other matters affecting the use of the forests and waste lands by the population adjacent thereto

Important proposals

(13) Proposals of importance for the formation of new forests, or which affect the use of the forests and waste lands by the adjacent population will be addressed by the Chief Conservator of Forests to Government direct

Special *assessments* under section 59 (*c*) of Land Revenue Act

(14) Nothing in the above instructions is to be understood as *affecting the responsibility of the revenue officers in respect of the* special assessments described in clause (*c*) of section 59 of the Land Revenue Act "

Rules for management of unclassed forests

767 The 49th section of the Punjab Laws Act (IV of 1872), provided that " no person shall make use of the pasturage or other natural product of any land being the property of the Government except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the local Government "

No general action was taken till the year 1896 † The rules issued in 1896 were republished with a few verbal alterations in 1900

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* See Chapter XXII

† Punjab Government notification No 58 dated 1st February 1896 Rules applicable to the Muzaffargarh district had been issued in notification No 94 dated 21st March 1882 see paragraph 772

when they were being extended to the Agror Valley in the district of Hazara * They are as follows —

1 (1) This rule rules 2 to 9 (both inclusive), and rule 17 apply in the first instance to all waste lands which are the property of the Government in the local areas mentioned in the schedule, except—

(a) protected and reserved forests,

(b) lands under the control of the military, canal, irrigation or railway authorities,

(c) lands under the control of district boards and municipal committees,

(d) encamping grounds,

(e) Government lands to which any special rules having the force of law under any Act for the time being in force in the Punjab apply,

(f) lands included within the area of any cultivating lease, or which have been allotted under the Government Tenants (Punjab) Act 1893

But the said rules may be extended to lands of classes (c) and (d) by special order of the local Government published in the official Gazette

(2) Rules 10 to 16 (both inclusive) apply in the first instance to the Multan district only but may be extended to any other local area by special order of the local Government published in the official Gazette

2 In these rules—

(a) ' Cattle ' includes, besides horned cattle, camels, horses, asses mules sheep goats, and the young of such animals

(b) Collector means the Collector of the district, and any person on whom the powers of a Collector have been conferred under section 27 of the Punjab Land Revenue Act, 1887

(c) "Forest Officer' means any officer of the Forest Department in charge of a Forest Range, and includes any person appointed by the Collector or by the Chief Conservator of Forests, Punjab, to discharge all or any of the functions given by these rules to the forest officer

(d) Farmer' means a person to whom the right to collect fees for the pasturing of cattle or to cut wood or grass, or to remove fuel or any other natural produce of any land to which these rule apply, has been leased by the Collector

(e) ' Graze' includes ' browse'

* Punjab Government notification No 1086, dated 11th August 1900

3 Save as hereinafter provided in rule 10, no person shall pasture cattle, cut wood or *sajji* plants or grass or gather fuel or any other natural product in the above mentioned lands except—

(i) under the authority of and in accordance with the conditions of a license granted by the Collector or forest officer or

(ii) with the permission of a farmer and in accordance with the conditions of such farmer's lease

4 Every license granted under rule 3 clause (i), shall be in writing and signed by the Collector or forest officer, and shall state—

(a) the nature, extent, and duration of the rights thereby conferred,

(b) the consideration paid or to be paid by the license holder, and

(c) the special conditions if any, on which the license is granted

5 (1) Every lease granted to a farmer shall be in writing signed by the Collector and the farmer and shall state—

(a) the nature extent, and duration which shall in no case exceed five years of the rights thereby conferred*,

(b) the consideration paid or to be paid by the farmer and

(c) the special conditions if any, on which the lease is granted

(2) Every such lease shall include—

(a) in cases where the consideration money is payable by instalments, a statement as to the amount of the said instalments and the dates on which they will fall due,

(b) in cases where the lease relates to the right of grazing—

(1) a specification of the maximum grazing dues which the farmer may levy, and

(2) a clause providing that the farmer shall not without the written permission of the Collector, transfer the lease or close any portion of the leased area to grazing by any cattle in respect of which grazing dues are tendered under rule 6, and

(c) in all cases a clause providing that if the leased area or any part thereof is at any time required by Government for public purposes, the lease shall be terminable on payment to the farmer of reasonable compensation to be assessed by the Collector

[illegible] which these [illegible] the farmer, [illegible] ime to time [illegible] that no fee shall be charged for any sheep or goat less than six months old, or for any other animal less than one year old

* Grazing leases should be sold at the beginning of the rainy season.

(2) The fees to be charged for licenses to cut wood, *sajji* plants, or grass, or to gather fuel or any other natural product in any lands to which these rules apply, shall be fixed from time to time by the Commissioner of the division and shall be paid by the license holder to the Collector or forest officer or such other person as may be authorised by the Collector in this behalf, or to the farmer, as the case may be

7. The local Government may in respect of any local area, exempt from all or any of the provisions of these rules any person or class of persons and any cattle or description of cattle

8 Every license holder and every farmer shall be bound by the conditions stated in the license or lease, as the case may be, granted to him, and every person acting under rule 3, clause (ii), shall be bound by the conditions of the lease granted to the farmer

9 (1) In case of any breach of the provisions of rule 8, the Collector may, at his discretion, cancel the license or lease, and thereupon the license holder or farmer, and every person acting under the farmer under rule 3, clause (ii), shall forfeit all claims to any produce or wood which at the time of the cancellation of the license or lease has not been removed from the land to which the license or lease applies

(2) On the cancellation of a license or lease under sub section (1), the license holder or farmer shall not be liable for any fees outstanding on the produce or wood so forfeited, but he shall have no claim to refund of dues already paid, and he shall not be thereby discharged from his liability for the payment of other dues in arrears or of instalments overdue under the terms of his license or lease at the date of the forfeiture

10 (1) The Collector may, with the previous sanction of the Financial Commissioner, make an agreement on behalf of Government with the whole community of cattle owners residing in any estate to pay such an annual assessment, by way of commutation for grazing dues, as may be agreed upon between the Collector and such community

(2) Such assessment shall not, without the sanction of the local Government, be made for a period exceeding five years, and when such an assessment has been concluded and recorded in such manner as the Financial Commissioner shall direct, no person comprised in such community of cattle owners shall be liable to separate assessment in respect of any cattle belonging to him and grazing during the period mentioned in such agreement on lands to which these rules apply, within the limits of the tract regarding which the agreement is made

(3) Similar agreements may, under the orders of the Financial Commissioner, be entered into between the Collector on behalf of Government and associations of cattle owners, in respect of cattle owned jointly or severally by the members of such associations.

(4) For the purposes of this rule, the consent of persons owning two thirds of the cattle belonging to a community or association as

aforesaid shall be deemed to be the consent of all the cattle-owners of such community or associations

11 If the cattle owners of any community or association, which has accepted an assessment made under rule 10, prove to the satisfaction of the Collector that the owner of any cattle, in respect of which the assessment was made, has with his cattle left that community or association and resides permanently with his cattle in another community or with another association in the same district which has accepted a similar assessment, the Collector may reduce the assessment payable by the former community or association and enhance the assessment payable by the latter community or association proportionately to the number and description of cattle removed from the one and added to the other

12 The Collector may require the headman of any community or association of cattle owners with which an agreement is in force under rule 10, to furnish him with a nominal roll of the cattle owners belonging to such community or association showing the number and description of the cattle owned by each

13 Disputes arising among the cattle owners of any community or association which has accepted an assessment made under rule 10, regarding the incidence as among themselves of the assessment, shall be decided by the Collector whose order shall be final

14. (1) All sums due under an assessment made under rule 10 shall be payable at such times and places and to such persons as the Financial Commissioner shall direct

(2) The amount assessed under rule 10 shall be collected by *lambardars* of estates or headmen of associations of cattle owners, or by such other persons as the Collector may appoint, and such *lambardars*, headmen, or other persons shall levy grazing dues from the cattle owners in accordance with rates which shall be fixed by the [illegible]

each

(3) If the amount of the grazing dues leviable under this rule from a cattle owner belonging to any community, or association which has accepted an assessment under rule 10, is not paid by such cattle-owner or by some other person on his account when duly demanded, the Collector may entirely rescind the agreement made under rule 10 in respect of such community or association

15 The persons authorised under rule 14 to collect the assessment shall be entitled to a drawback not exceeding 5 per cent on all sums paid by them into the Government treasury on account of such assessment

16 *Cancelled*

17 Any person acting in contravention of any of these rules shall be liable, on a first conviction, to simple imprisonment for a term which may extend to one month, or to fine not exceeding Rs 100, or

to both, and, on a subsequent conviction under this rule within three years of the first, to imprisonment for a term which may extend to six months, or to fine not exceeding Rs 300, or to both

SCHEDULE.*

Local areas to which rules 1 to 9 and rule 17 apply—

Hissar	district.
Rohtak	"
Karnal	"
Lahore	"
Multan	"
Rawalpindi	"
Attock	"
Jhelum	"
Gujrat	"
Shahpur	"
Dera Ghazi Khan	"
Mianwali	"
Muzaffargarh	"

768 As regards Government waste lands other than those under the Forest Department, these rules have been supplemented by the following executive instructions† —

Executive instructions as to rakhs under district management.

(i) The Collector should some time before the beginning of each agricultural year submit, for the approval of the Commissioner, a brief report showing generally the arrangements he proposes to make for the ensuing year as regards—

(a) grazing;

(b) cutting and sale of timber, fuel grass and other natural products

It is not intended that details of management should require the Commissioner's sanction, but it is essential that he should be in a position to exercise a general control over the treatment of Government waste lands in his division

(ii) No claim on the part of the residents in any estate to a right of grazing in Government lands adjacent to such estate or of obtaining leases or licenses connected therewith under the above mentioned rules should be admitted But in granting leases or licenses, the reasonable requirements of the population adjacent to the Government lands concerned should be carefully considered and it is often expedient to select leading members of the rural community as farmers of grazing dues

* Punjab Government notification No. 816 Revenue dated 23rd December 1905

† Punjab Government letter No 235 General dated 1st April 1896.

(*iii*) Wholesale sales of wood from *rakhs* and forests under the control of Collectors is prohibited, except on special grounds, and with the previous sanction of the Financial Commissioner Contractors and others applying to Collectors for a wholesale supply should first be referred by them to the forest officer All applications for supply of wood for railway fuel and for large public works should be considered wholesale, and in other cases all applications for a quantity exceeding 3 000 maunds, (Punjab Government No 162 F, dated the 12th April 1880) The intention of these orders is that district officers should co operate with the Forest Department in an intelligent and economical administration of the *rakhs* and forest lands under their charge and in the prevention of indiscriminate cutting likely to injure the permanent supply of wood and the reproductive capacity of the *rakhs*.

(*iv*) But licenses to cut wood should be granted under the rules issued under section 48 of Act IV of 1872 and given in the last paragraph to the extent necessary to meet the reasonable requirements of the people residing in the neighbourhood of Government lands in the matter of timber and fuel when they are unable to meet these requirements from the produce of their own lands

(*v*) The Collector should insert in leases and licenses such conditions as he considers necessary for the prevention of waste and the promotion of good management

(*vi*) If a lease or license is put up to auction the Collector should notify that he will not be bound to accept the highest or any bid

(*vii*) No lease of the description mentioned in rule 5 in the last paragraph shall be given for more than one year without the sanction of the Financial Commissioner

Tirni.

769 *Allusion has been made in paragraph 756 to the fees* levied on account of the grazing of cattle in the large waste areas owned by the State in the west of the Punjab These charges are known as *tirni* In theory *tirni* is a rent paid for pasturage, in practice it has been partly that and partly an assessment levied on the profits derived from the rearing of cattle In fact the word has sometimes been employed so as to include the land revenue paid by the proprietors of an estate on account of the village waste The levy of *tirni* on account of grazing in Government lands has been regulated by the rules issued under section 48 of Act IV of 1872, quoted in paragraph 767. The subject has lost much of its importance with the extension of canal irrigation in the west of the province and the colonization of the Bar tracts But a brief sketch of its history should find a place in any book dealing with the administration of land in the Punjab

Tirni in the Bar tracts of Jhang Multan and Montgomery

770 In the south west of the province an assessment on cattle was an obvious and reasonable way of raising revenue Diwan Sawan Mal inherited the system of levying *tirni* from the Muhammadan rulers who were displaced by Ranjit Singh and we inherited it from Sawan Mal He was wise enough to make his collect [illegible] through the leading men of the local tribes, and we continued the same plan, calling them *sadr tirni guzars* The Board of Administration in 1858 issued rules

fixing rates for the assessment of *tirni* varying from Re 1 8 0 for a female camel to half an anna for a sheep or goat Payment of these rates made cattle free of the whole Government waste in the district The rules contemplated an assessment of *tirni* on village cattle for the term of the short settlements then being made and an assessment on the nomad graziers of the Bar on the basis of the old payments made by the *sadr tirni guzars*

Rules of 1860 The system of annual leases

771 Colonel Hamilton, the Commissioner of Multan, reported on the subject in 1858 and rules proposed by him were sanctioned by Government in 1860 for adoption in the old Multan and Leiah divisions * The basis of the system then set up was direct collection by Government with the help of the village headmen and *sadr tirni guzars* of a demand revised annually as the result of enumeration Of course a yearly cattle census was really impracticable but every village or group of camel men grazing in the Bar was liable to have its assessment changed from year to year on reports furnished by a small and poorly paid *tirni* establishment or by tahsil officials Nominally a village might declare its intention to graze its cattle solely in its own waste, and claim to be exempt from *tirni* But if a single head of cattle was found in the Government waste the whole estate became liable In practice very few villages were allowed to be recusant (*inkari*) otherwise the whole system would have broken down The cattle of a *tirni guzar* village could graze in any part of the State lands within the limits of the district

The *chak* system

772 The complaints made against the above plan were that it led to much official corruption that it yielded a less income than would be obtained by dividing the waste into large blocks and leasing the right to collect the authorised fees within these blocks to farmers, and that it allowed the pastoral tribes to wander uncontrolled over the whole district, and thus fostered their criminal tendencies and their aversion to settled agricultural pursuits Orders were accordingly issued about 1870 for the adoption of the *chak* system Each *chak* or block of Government waste was to be leased yearly to a farmer, and cattle grazing in more than one block had to pay the full fees to the lessee of each In Montgomery the introduction of the *chak* system was vehemently opposed by the grazing community but they yielded when they saw that otherwise outsiders would be brought in as farmers, and most of the leases were at first given to leading members of the land owning tribes Finally all or most of the contracts were combined in the hands of one speculative farmer, who had to be assisted in making his collections by the whole official machinery of the district In 1879 the plan broke down under the burden of its unpopularity and the old system of annual village leases was reintroduced one payment giving the privilege of grazing over the whole district The right to collect *tirni* at the authorised rates from *nau baramad* cattle or animals brought for grazing purposes from another district continued to be leased In Jhang the introduction of outside contractors, which led to so much complaint in Montgomery, was

* See Barkley's Non Regulat on Law of the Punjab pages 3?1—3?6

avoided Mr Steedman, the Settlement Officer, described the plan in force in that district as follows —

> 'The grazing waste of the Bar is divided into *chaks* The right of collecting the *tirni* in these *chaks* is nominally auctioned annually, but as a matter of fact the les ees are almost always from year to year the same body of influential *zamindars* residing in the neighbourhood of the *chak*, and the Deputy Commissioner fixes the amount of lease money All the villages in the district are either *tirni guzar* (paying) or *ghair tirni guzar* In the former it is taken for granted that all the cattle graze in the Government Bar, and accordingly rates are levied on every head of cattle existing in the village They are divided or allotted to one particular *chak* or other in which they are accustomed to graze Some few situated close to the boundary of two *chaks* have been allowed to graze in both on payment of a single fee but as a rule cattle can only graze for a single fee in the one *chak* to which the village is allotted . The collection of the fees i left entirely to the lessees
>
> 'The non paying villages are those which are not allotted to any *chak* and the cattle of which it is presumed do not graze in the Bar If they do they become liable to puni tive rates treble or quadruple the ordinary rate But these punitive rates are not levied in practice for a lessee is glad to secure these and other outsiders and even to offer them lower than the prescribed rates in order to attract them to his *chak* The nomad graziers who own herds but no village in the Bar, attach themselves to a *chak* with respect to which they stand in the same rela tion as the paying villages The *chakdars* collect the full fee from every head of cattle in villages assessed to *tirni* in connection with their *chak*, and also collect the *tirni* payable for the cattle of outsiders grazing in their *chak*, whether belonging to *tirni* paying or exempt vil lages of their district or to another district The latter collections are known as *nau baramad*

The system of quinquennial leases

773 The *chak* system was quite unsuited to Multan with its scanty and capricious rainfall The particular block of waste to which a village was attached might in any year be bare of grass and the cattle had to be driven for pasturage to the other end of the district The attempt to introduce the plan therefore proved abortive from the first In 1878 Mr Roe when Settlement Officer of Multan proposed to substitute for yearly quinquennial village assessments and four years later as Deputy Commissioner he carried out this plan with the sanction of the Financial Commissioner The opportunities for extortion and corruption on the part of underlings were greatly diminished and the reform was afterwards introduced also in Jhang and Montgomery It is still in force, but in the Jhang Bar and in the part of Montgomery

lying to the west of the Ravi* *tirni* has become a matter of very small importance. The 10th to the 15th of the rules quoted in paragraph 767 relate to the quinquennial system of *tirni* assessment.

Tirni in the Thal.

774. The Thal has been described in paragraph 757. It is now included in four districts. The greater part of it is in the Mianwali, Bhakkar and Leiah tahsils of Mianwali. Up to the formation of the North-West Frontier Province the Mianwali tahsil was part of the Bannu, and the other two tahsils part of the Dera Ismail Khan district. The rest of the Thal is in the Khushab tahsil of Shahpur, the Sinawan tahsil of Muzaffargarh, and in the part of the Jhang district lying to the west of the Jhelum. In the Bannu settlement report Mr. Thorburn described the *tirni* as it existed before the regular settlement of 1872—78 in the Mianwali tahsil, and the description applies also to the Leiah and Bhakkar tahsils—" On annexation, wherever a community was found, an enumeration of its cattle was made, and *tirni* imposed, after which graziers had, irrespective of residence, a right of pasturage over the whole Thal . . . . . . Thus *tirni* was a poll tax on cattle . . . . As graziers are somewhat migratory, and murrain . . . . . is occasionally very destructive, the annual imposition of the settlement amount on each village caused serious inequality of taxation."† As already noticed (paragraph 757), the greater part of the huge area of the Thal, which is best adapted to the grazing of goats, sheep, and camels, was included at the regular settlement in village lands. In Leiah and Bhakkar a fixed grazing assessment was imposed on the Thal waste included in village boundaries But in order to meet the case of camels which browse over large areas, it was decided that they should not be included in this assessment and should be free to browse in any *Thal* village. It was the more necessary to make this arrangement as the camels of the *powindah* traders from Afghanistan, which pay *tirni* on entering British territory, pass through the *Thal*. The tax on the camels belonging to the *Thal* villages is farmed to contractors, the estates being grouped in *dags* or *chals* for leasing purposes The farmers collect from camel owners at rates fixed by Government *Powindah* camels grazing in village lands pay nothing The Government *rakhs* are leased out yearly, generally *to the headmen of neighbouring villages, who realize fixed fees from* all animals, including camels whether belonging to residents of the district or outsiders, found in the *rakhs* *Powindah* camels grazing in the *rakhs* pay the usual fees ‡ The same system was adopted at the regular settlement of Bannu for the Mianwali tahsil, but there *powindah* camels were excluded from village waste except with the consent of the land-owners, and were charged half rates when browsing in Government *rakhs*.§ The forty-five *chals* into which the Government land in the *Thal* of the Khushab tahsil of Shahpur is divided is sold

* Revenue proceedings, Nos 11—16 of April 1905

† Mr. Thorburn's settlement report of Bannu, paragraphs 202 and 309

‡ Paragraphs 534—538 of Mr Tucker's settlement report of Dera Ismail Khan and paragraph 72 of Mr Hailey's Thal assessment report.

§ Mr Thorburn's Bannu settlement report, paragraph 202.

rates. It should be distinctly understood that considerations of forest income are to be subordinated to that satisfaction.

There is reason to believe that the area which is suitable to the growth of valuable timber has been over-estimated, and that some of the tracts which have been reserved for this purpose might have been managed with greater profit both to the public and to the State, if the efforts of the Forest Department had been directed to supplying the large demand of the agricultural and general population for small timber, rather than the limited demand of merchants for large timber. Even in tracts of which the conditions are suited to the growth of large timber, it should be carefully considered in each case whether it would not be better, both in the interests of the people and of the revenue, to work them with the object of supplying the requirements of the general, and in particular of the agricultural population.

Opening of forests to cultivation

6. It should also be remembered that, subject to certain conditions to be referred to presently, the claims of cultivation are stronger than the claims of forest preservation. The pressure of the population upon the soil is one of the greatest difficulties that India has to face, and that application of the soil must generally be preferred which will support the largest numbers in proportion to the areas available for cultivation. Accordingly, wherever an effective demand for culturable land exists, and can only be supplied from forest areas, the land should ordinarily be relinquished without hesitation, and if this principle applies to the valuable class of forests under consideration, it applies *a fortiori* to the less valuable classes which are presently to be discussed. When cultivation has been established it will generally be advisable to disforest the newly-settled area. But it should be distinctly understood that there is nothing in the Forest Act, or in any rules or orders now in force, which limits the discretion of local Governments without previous reference to the Government of India (though, of course, always subject to the control of that Government), in diverting forest land to agricultural purposes, even though that land may have been declared reserved forest under the Act.

Conditions on which cultivation should be permitted

7. Mention has been made of certain conditions to which the application of the principle laid down in the preceding paragraph should be subject. They have for their object the utilization of the forest area to the greatest good of the community. In the first place, the honey-combing of a valuable forest by patches of cultivation should not be allowed, as the only object it can serve is to substitute somewhat better land in patches for sufficiently good land in large blocks, while it renders the proper preservation of the remaining forest area almost impossible. The evil here is greater than the good. In the second place, the cultivation must be permanent. Where the physical conditions are such that the removal of the protection afforded by forest growth must result, after a longer or shorter period, in the sterilization or destruction of the soil, the case falls under the principle discussed in paragraph 4 of this resolution. So, again, a system of shifting cultivation, which denudes a large area of forest growth in order to place a small area under crop, costs more to the community than it is worth,

and can only be permitted, under the due regulation, where forest tribes depend on it for their sustenance In the third place the cultivation in question must not be merely nominal, and an excuse for the creation of pastoral or semi pastoral villages which do more harm to the forest than the good they reap from it And in the fourth place cultivation must not be allowed so to extend as to encroach upon the minimum area of forest which is needed in order to supply the general forest needs of the country or the reasonable forest requirements, present and prospective, of the neighbourhood in which it is situated In many tracts cultivation is practically impossible without the assistance of forests, and it must not be allowed to destroy that upon which its existence depends

Customs of user in timber forests

8 It has been stated above that the forests under consideration are generally, but not always, free from customs of user. When, as sometimes happens, they are so intermingled with permanent villages and cultivation that customary rights and privileges militate against their management as revenue paying properties, the principles laid down at the end of paragraph 5 of this resolution should be observed, and considerations of income should be made secondary to the full satisfaction of local needs

Such restrictions as may be necessary for the preservation of the forest, or for the better enjoyment of its benefits, should be imposed, but no restriction should be placed upon reasonable local demands, merely in order to increase the State revenues

(c) Minor forests to be used chiefly for the supply of local needs

9 The third class of forests include those tracts which, though true forests, produce only the inferior sorts of timber or the small growths of the better sorts In some cases the supply of fuel for manufactures, railways, and like purposes is of such importance that these forests fall more properly under the second class, and must be mainly managed as commercial undertakings But the forests now to be considered are those which are useful chiefly as supplying fuel and fodder or grazing for local consumption and these must be managed mainly in the interest of the population of the tract which supplies its forest requirements from this source The first object to be aimed at is to preserve the wood and grass from destruction, for user must not be exercised so as to annihilate its subject, and the people must be protected against their own improvidence The second object should be to supply the produce of the forests to the greatest advantage and convenience of the people To these two objects all considerations of revenue should ordinarily be subordinated

But revenue should not altogether be foregone

10 It must not be supposed from the preceding remarks that it is the intention of the Government of India to forgo all revenue from the large areas that are valuable chiefly for the fuel and fodder which they yield Cases must be distinguished Where the areas in question afford the only grazing and the only supply of fuel to villages which lie around or within them, the necessities of the inhabitants of these villages must be treated as paramount, and they should be satisfied at the most moderate rates and with as little direct official interference as possible But where the villages of the tract have already ample pasture grounds attached to their cultivation and owned

and managed by themselves and where the Crown lands merely supplement these pastures and afford grazing to a nomad pastoral population, or to the herds that shift from one portion of the country to another with the changes of the season, Government may justly expect to reap a fair income from its property Even in such cases, however the convenience and advantage of the graziers should be studiously considered, and the inhabitants of the locality, or those who habitually graze over it, should have a preferential claim at rates materially lower than might be obtained in the open market It will often be advantageous to fix the grazing demand upon a village or a nomad community for a year or a term of years The system, like every other, has difficulties that are peculiar to it, but it reduces the interference of petty officials to the lowest point, and minimizes their opportunities for extortion and oppression Where grazing fees are levied *per capita*, free passes are often given to a certain number of cattle In such cases the cattle which are to graze free should include, not only the oxen which are actually employed on the plough, but also a reasonable number of milch cattle and calves A cow or a buffalo is as much a necessity to a cultivator, using the word necessity in a reasonably wide sense as is a plough-bullock and in many parts the oxen are bred in the village

Considerations connected with the formation of fuel and fodder preserves

11 In the portions of this report which are referred to in the preamble to the resolution, Dr Volcker strongly recommends the formation of fuel and fodder preserves and the Government of India has repeatedly urged the same policy upon local Governments The question whether any particular area can be made to support a greater number of cattle by preserving the grass and cutting it for fodder, or by permitting grazing upon it, is one that must be decided by the local circumstances of each case But when it has been decided, the issues are by no means exhausted It has been stated in paragraph 9 above that one main object towards which the management of these minor forests should be directed is the supply of fuel and fodder ' to the greatest advantage and convenience of the people' In doing so due regard must be had to their habits and wishes It may be that strict preservation and periodical closures, or the total prohibition of grazing, will result in the largest yield both of fuel and of fodder in the form of hay But that is of small avail if the people will not utilise the increased supply in the form in which it is offered them The customs of generations alter slowly in India, and, though much may and should be done to lead the people to their own profit, yet it must be done gently and gradually, always remembering that their contentment is no less important an object than is their material advantage It must be remembered, moreover, that the object of excluding grazing from the preserves in question is the advantage of the *neighbourhood*, and that the realization of a larger income than grazing would yield, by preserving the produce, only to sell it to the highest bidder for consumption in large towns at a distance from the preserve is *not* always in accordance with the policy which the Government of India has inculcated Here again circumstances must decide It may be that the local supply of fuel or fodder, independently of the reserved

area, is sufficient in ordinary years for the needs of the neighbourhood In such a case the produce may legitimately be disposed of in such years to the greatest advantage, reserving it for local consumption only when the external supply runs short Finally, the remarks regarding agency in paragraph 12 and the more general considerations that are discussed below in paragraph 13 of this resolution, apply in full force to areas thus reserved for the supply of fuel and fodder

12 The fourth class of forests referred to are pastures and grazing grounds proper which are usually forests only in name It is often convenient indeed, to declare them forests under the Act, in order to obtain a statutory settlement of the rights which the State on the one hand and private individuals or communities on the other possess over them But it by no means follows as a matter of course that these lands should be subjected to any strict system of conservation, or that they should be placed under the management of the Forest Department The question of agency is purely one of economy and expediency and the Government of India believe that in some cases where these lands are managed by the Forest Department, the expenditure on establishment exceeds the revenue, that is or at any rate the revenue that ought to be realized from them

(d) Pasture land Same principles apply as to class (c) but with greater force

The following remarks apply not only to forest lands under the Act whether administered by the Forest Department or not but also to all Crown waste even though not declared to be forest Here the interests of the local community reach their maximum while those of the general public are of the slightest nature It follows that the principles which have been already laid down for the management of minor forests apply if possible with even greater force to the management of grazing areas pure and simple

13 The difficulties which arise in connection with these areas are apt to present themselves in their most aggravated form where the tenure of land is *raiyatwar* In *aminda* tracts the Crown lands generally assume the second of the two forms indicated in paragraph 10 of this resolution But where the settlement is *raiyatwari* every survey number or field that is unoccupied or unassigned is in the possession and at the disposal of Government, and trespass upon it is *prima facie* forbidden In some cultivated tracts these unoccupied and waste lands are the only source available from which the grazing requirements of the resident population can be met The Government of India are clearly of opinion that the intermixture of plots of Government land which are used for grazing only, but upon which trespass is forbidden with the cultivation of occupancy or proprietary holders is apt to lead to extreme abuses and especially so when these plots are under the management of the Forest Department The inferior subordinates of the Forest Department are perhaps as reliable as can be expected on the pay which we can afford to give, but their morality is no higher than that of the uneducated classes from which they are drawn while the enormous areas over which they are scattered and the small number of the controlling staff render effective supervision most difficult. It is not right, in order to protect the grass or the grazing dues on plots

Difficulties of management

of waste scattered over the face of a cultivated district, to put it into the power of an underling to pound or threaten to pound cattle on the plea that they have overstepped the boundary between their owner's field and the next. Still less right it is to permit the exercise of the power of compounding offences allowed by section 67 of the Forest Act to depend upon the mere report of a subordinate servant, or to expose him to the temptation which such a power holds out Where the interests involved are sufficiently important, it may perhaps be necessary to accept the danger of extortion while minimizing as far as possible the opportunities for it But in the case under consideration the interests involved are trifling, while the opportunities are unlimited

Should generally be leased to be managed through the agency of neighbouring community

14 It is to be distinctly understood that the Government of India do not desire that grazing should be looked upon primarily as a source of income But it by no means follows that all revenue from scattered Government lands should be relinquished It is, indeed, inadvisable that this should be done, as to do so would give the *raiyats* an interest in opposing allotment and making things unpleasant for new occupants But the objections to direct management which have just been pointed out are reduced to a minimum, or altogether avoided when the management is placed in the hands of resident cultivators or of representatives from among them It will generally be possible to lease or otherwise manage the unoccupied land of a village through the agency of the community, not indeed, at the highest price which they are ready to pay to escape such evils as have just been alluded to, but at a moderate estimate of their value to them, fixed in view of the fact that herds and flocks, which cannot exist without grazing, are often a necessary condition of the successful conduct of that cultivation upon which the Government land revenue is paid In no case should fields that have been relinquished be let to outsiders at a reduced assessment for grazing purposes for then we might have speculators taking up such fields, mainly in order to make what they can out of trespassing cattle

When "reservation" and when "protection" is to be preferred

15 One more point of principle remains to be noticed The procedure under chapter IV of the Indian Forest Act, whereby forests are declared to be protected, has been in certain cases, regarded by the Government of India as a provisional and intermediate procedure, designed to afford time for consideration and decision with the object of ultimately constituting so much of the area as it is intended to retain a reserved forest under chapter II, and of relinquishing the remainder altogether The Act provides two distinct forms of procedure But the more strict one, under chapter II, existing rights may be either settled, transferred, or commuted, and this procedure will ordinarily be applied to forests of the first and second classes indicated in paragraph 8 of this resolution By the second procedure under chapter IV rights are recorded and regulated, and this procedure will often be properly followed where the rights to which the area is subject are extensive, and the forest is to be managed mainly in the interests of the local community It will ordinarily be applied to forests of the 3rd and 4th

classes The second procedure may indeed be provisional and introductory to reservation under chapter II but there is in the Forest Act nothing repugnant to giving it a larger and even a permanent operation As regards Government, the chief difference between the two procedures is, that new rights may spring up in a protected but not in a reserved forest, and that the record of rights framed under chapter II is conclusive while that framed under chapter IV only carries a presumption of truth It is believed that this presumption offers ample security where the object of regulating the rights is to provide for their more beneficial exercise, rather than to override them to the public interest As regards the people the chief difference is that, speaking broadly, in a reserved forest everything is an offence that is not permitted while in a protected forest nothing is an offence that is not prohibited In theory it is possible so to frame the permission and the prohibition as to make the results identical in the two cases but in practice it is almost impossible to do so If it were not so the distinction drawn by the Legislature would be unnecessary and meaningless It is only where the public interests involved are of sufficient importance to justify the stricter procedure and the more comprehensive definition of forest offences that the latter should be adopted

The Governor General in Council desires therefore that with regard both to fuel and fodder preserves and to grazing areas pure and simple, and especially to such of them as lie in the midst of cultivated tracts it may be considered in each case whether it is necessary to class them or if already so classed to retain them as forest areas, and if this question is decided in the affirmative whether it would not be better to constitute them protected rather than reserved forest

16 Such are the general principles which the Government of India desire should be observed in the administration of all State forests in British India They are fully aware that the detailed application of these principles must depend upon an infinite variety of circumstances which will have to be duly weighed in each case by the local authorities to whose discretion the decision must be left One of the dangers which it is most difficult to guard against is the fraudulent abuse of concessions for commercial purposes and only local considerations can indicate how this can best be met The Government of India recognize the fact that the easier treatment in the matter of forest produce which His Excellency in Council desires should be extended to the agricultural classes may, especially in the case of true forest areas necessitate more careful supervision in order that the concession may be confined within its legitimate limits But on the other hand they think that in some provinces it will render possible a considerable reduction of existing establishment and they desire that this matter may be carefully considered with reference to what has been said above in paragraph 12 They know also that in some provinces forest policy is already framed on the lines which they wish to see followed in all But the Governor General in Council believes that local Governments and Administrations will be glad to receive the assurance now given them that the supreme Government will cordially support them in recognizing and providing

Concluding remarks

for local requirements to the utmost point that is consistent with Imperial interests. Where working plan or plans of operations are framed for forests, the provisions necessary for this purpose should be embodied in them The exercise of the rights that have been recorded at settlement will necessarily be provided for in these plans Where further concessions are made by way of privilege and grace it will be well to grant them for some such limited period as ten years, so that they may, if necessary, be revised from time to time, as the circumstances on which they were moulded change

CHAPTER XXII

STATE LANDS DEVOTED TO THE EXTENSION OF CULTIVATION.

Early policy as regards leases of waste lands

776 A Prior to 1846, the question of the utilisation of waste lands for the extension of cultivation was not of much importance An attempt at colonization was made in Sirsa, in Fazilka a number of new estates were carved out of the waste and leased, in Karnal also a number of small estates were formed out of the waste and the abandoned lands which were leased to speculators or zamindars Most of these lessees later acquired proprietary rights, while many tenants of old standing were given occupancy rights

After the annexation of the Punjab, however, vast areas of uncultivated land to which no one had any claim came into the possession of the State In order to encourage the breaking up of this waste lots were given out on lease on easy terms On fulfilment of the terms of the lease as regards the bringing of the land under cultivation ownership would be conceded free of charge or on the payment of a very moderate sum In 1850 revised lease rules were issued under which all lands commanded by a canal were to be leased out in 100 acre plots to all those who undertook to bring them under cultivation, it was laid down that if the conditions were fulfilled the lessee would be entitled to a grant of ownership free of charge For the first 10 years no rent would be charged and then a gradually increasing rent from Rs 15 to Rs 75 per annum for eight years, after which the plots would be liable to assessment at the usual rates* If cultivation were neglected forfeiture of the lease was to be insisted on For lands not likely to be commanded by a canal in the near future district officers were allowed to accept such offers as might be made but never on lower terms than those given above †

Sale rules of 1863 and 1865.

777 The policy of allowing land-owners to redeem the land revenue and of selling public lands free of revenue in perpetuity for a time found favour with the Government of India ‡ In Punjab Government notification No 25, dated 14th January 1863, rules were published for the carrying out of this policy as regards sales "All waste lands belonging to Government unless specially reserved might be sold by auction by the Deputy Commissioner On receipt of an application to purchase it was his duty to call for objections and to give notice to the Commissioner In the absence of objections or in the event of any objections presented being rejected the land was to be put up to auction at an upset price fixed by the Deputy Commissioner and sold to the highest bidder On payment of the last instalment of the purchase money the land became the property of the grantee free for ever from all demands on account of land revenue" But he remained

* These rates were exclusive of canal water rate that might be imposed
† See Board of Administration circular No 40, dated 29th June 1850
‡ Paragraph 494 of the Settlement Manual

liable to pay cesses The sale conveyed to the vendee "plenary right to all products both above the surface and below the same, saving any exceptions specially noted To aid in carrying out this policy of speedily disposing of large areas an Act No XXIII of 1863, which is still in force, was passed to provide for the adjudication of claims to waste lands A revised edition of the rules of 1863 was issued with Punjab Government notification No 635, dated 16th September 1865 The grantee's right to minerals was to be subject to such royalty .. as may be fixed under the rules in force" It is fortunate that the rules of 1863 and 1865 did not remain in force long, and that little advantage was taken of their provisions The dangerous scope of these sale rules was soon perceived In 1864 the previous sanction of the Financial Commissioner was required for all sales* and in 1866 the Government of India requested the local Government not to permit the sale of any *rakhs* which were likely by their position to prove useful hereafter for plantations, even though no timber was now to be found in them †

Lease rules of 1868

778 The rules issued in 1868 were the first general rules for the lease of waste lands in the Punjab In these rules it was laid down that the lessee would be entitled to the pre emption of the proprietary right in the land at a fair and reasonable sum provided he agreed to the assessment placed on the land But in 1873 this rule was altered, and it was laid down that if at any time, either during the term of the lease or at its expiration Government resolved to sell the proprietary right in the said land the lessee would be given the option to purchase at a reasonable price to be fixed by the Deputy Commissioner

Sale rules of 1876 and 1882 and lease rules of 1882

779 New sale rules were issued in 1876 They differed from the rules of 1865 in one very important respect, for they provided that the land should be sold 'subject to payment of the land revenue demand for the time being assessed thereon' As in the rules of 1865 Government reserved a right to charge a royalty upon all minerals ‡ A revised edition was issued in 1882 and in it the title of the State to retain the ownership of all minerals was expressly asserted § At the same time fresh lease rules were issued which differed little from the rules of 1868, except that the rights of the State as regards mines, minerals, coals, gold washings and quarries were fully explained

Lease rules of 1885

780 It was partly on account of the uncertainty regarding the terms of purchase in the lease rules of 1868 and 1882 that a new set of rules was issued with the approval of the Government of India in 1885, when Sir Charles Aitchison was Lieutenant Governor ‖ Com [illegible]

Governor As before the assessment was to be framed 'with due regard to the revenue rates assessed on land in the neighbourhood and

* Financial Commissioner's Book circular No 16 of 1864

† Financial Commissioner's Book circular No 14 of 1866

‡ Financial Commissioner's Book circular No XI of 1877

§ Financial Commissioner's circular No 21 of 1882

‖ Revenue (General) proceedings Nos 3-4 of September 1885

to the special circumstances of the case ' But in addition to the assessment a *malikana* or proprietary fee amounting to 25 per cent of the revenue was to be paid by the lessee The rent was therefore only 1¼ times the land revenue, and it might be remitted altogether for one or more years The term was ordinarily to be fixed so as to expire with the current settlement of the district Minerals and the right of Government over rivers and streams were fully reserved The Government had power to determine the lease during its currency if the land was required for public purposes on paying compensation for any improvements made On the expiry of the original term the lessee was entitled to claim renewal on such terms as to payment of land revenue and proprietary due or *malikana* as the officer renewing the lease might determine If the lease was renewed the lessee had no claim to compensation for improvements The conditions regarding purchase were extremely liberal The lessee could purchase proprietary right at any time by paying five times the amount of the maximum rent, that is to say 6¼ times the land revenue After the rules of 1885 were published the Financial Commissioner issued instructions requiring Deputy Commissioners to arrange without needlessly harassing lessees for the regular inspection of lands held on lease so as to ensure the proper fulfilment of the conditions *

781 Revised sale rules were also issued in 1885 Sales might be made by public auction after the publication of a notice in the gazette The sale must not take place for three months from the date of the notice † The land was to be sold subject to all existing rights of way or water and other easements and the title of Government to all minerals was to be reserved The purchaser was bound to pay half the purchase money within three months of the date of sale, and on doing so was to be put in possession of the land As security for the payment of the remainder in five equal yearly instalments he was to execute a deed mortgaging the land to the Government Few sales of waste land by public auction except in the case of the canal colonies to be presently mentioned have taken place in the Punjab The sale rules of 1885 apparently ceased to be in force when the lease rules of 1897 were issued

Sale rules of 1885

782 *The operation of the lease rules of 1885 was soon greatly* restricted In 1887 the Government of India expressed the view that in practice they do not appear to protect the interests of Government and it is evident that a lessee may purchase the proprietary right in waste land for a price which is far below the market value of the land ‡ About the same time the meaning of the phrase a fair and reasonable price in the rules of 1868 came under discussion and the Government of India finally ruled in opposition to the views of Sir James Lyall that it may be taken to mean the market value of the leased lands at the time the lease holder offers for the proprietary right minus the value of permanent improvements

Operation of Lease Rules of 1885 restricted.

* [illegible]

† [illegible]

‡ [illegible] tter No 43* R—) of October 1887

made by his capital " The local Government was authorized to give an abatement of 20 per cent on the price calculated in the manner mentioned above ' in order to give full weight to the consideration that lease holders had been led to expect a renewal of their leases on favourable terms * Being aware of the policy of the supreme Government and knowing that great extensions of canal irrigation were likely to take place shortly, Sir James Lyall in May 1888 ordered the revision of the rules of 1885 to be undertaken Leases without the sanction of the local Government were to be restricted to the eight [illegible]

(a) if it was proposed to allow the lessee to construct a private canal or

(b) where the land was commanded by a canal owned or managed by Government, or where such a canal was likely to be presently constructed by Government

The latter restriction became very important with the development of projects for large canals from the Chenab and Jhelum rivers Much severer terms as regards rent and the price to be charged if the land was ultimately sold were suggested Cases of leases of waste lands occurring while the new rules were being elaborated were to be dealt with as if the rules had already been altered in the manner proposed †

Lease rules of 1897

783 For various reasons great delay occurred in the issue of the new rules and they were not actually published till 1897

They will be found in appendix III (1) The principal points in which they differ from earlier rules are—

(a) the limitation of the areas which may be leased

All tracts are excluded which are embraced by any colonization scheme for lands commanded by a Government canal and all areas likely to be so commanded The local Government alone can make exceptions The amount of Government land suitable for leasing is now small Lists of such lands are to be drawn up by the Deputy Commissioner, and the local Government is to determine from time to time which of these lands shall be deemed available for leasing Subject to these stringent conditions the Commissioner can sanction a lease up to a limit of 75 acres if the land is not irrigable from a canal and the Financial Commissioner up to a limit of 150 acres, whether the land is irrigable from a canal or not for a maximum period of 20 years in each case, provided the total area held on lease by a single lessee does not exceed 75 and 150 acres respectively Leases of areas exceeding 150 acres must be approved by the local Government ‡

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* Government of India Revenue and Agricultural Department letter No 1?66—164 2 R., dated 2?th October 1890—Revenue (General) proceedings No 1 of December 1890

† Punjab Government letter No 33 dated 21st May 1888—Revenue (General) proceedings No 8 of May 1888

‡ See rules 1 to 3 in appendix III

(*b*) the exaction of a fuller rent.

The rent was to be calculated so as to be equivalent to the land revenue plus a proprietary due or *malikana* in addition

The former is to be calculated with due regard to—

(1) the revenue rates assessed on similar lands at the last settlement, and

(2) the present renting value for cultivation and grazing of similar land in adjacent estates

In applying this canon so much of the area is to be treated as cultivated as the lessee may fairly be expected to bring under cultivation within the term of the lease

The proprietary due or *malikana* is to be 4 per cent of the market value of the land in its waste condition, and, if that is not ascertainable not less than 50 per cent of the land revenue assessed

The Financial Commissioner is given certain powers of reducing the *malikana* for special reasons Initial exemptions from payment of rent may also be allowed *

(*c*) the permanent rights which the lessee can acquire are either—

(1) right of occupancy under section 8 of the Punjab Tenancy Act, or

(2) ownership

Different forms of instrument of lease are employed according as it is proposed to grant the one or the other

If a right of occupancy is acquirable it can be claimed after the lessee has been in occupation for five years, if meanwhile he has fulfilled all the conditions At the end of the term of the lease the rent is fixed at the land revenue with an addition of 75 per cent as *malikana*

Where the lease gives the lessee the option of obtaining ownership he may do so at any time during the currency of the lease †

(*d*) the price charged for the land is the full market value

The local Government can reduce the amount for special reasons ‡

784 The 24th of the rules exempts from their operation leases for a single harvest The practice of giving such licenses for temporary cultivation in respect of lands which, being low lying received local drainage and therefore could in good seasons be cultivated without irrigation, used to be common in some of the south western districts The spread of canal irrigation has made the matter one of small importance, and rendered it necessary to impose restrictions on the practice The instructions at present in force will be found in appendix III (2)

Leases for a single harvest.

* See rule 10 in appendix III

† Rules 18 19 and 21 *ibid*

‡ Rule 19 (iii) *ibid*.

Other alienations of State lands

785 So far we have been dealing with sales and leases of waste land owned by the State made on the authority of rules issued with the sanction of the Government of India * But the State may have acquired by escheat or otherwise cultivated land or town sites, the ownership of which it is prepared to transfer on various terms to public bodies or private individuals Occasions may also arise for the grant of waste lands on conditions more favourable than those embodied in the lease rules. A classification of the transfers referred to above and directions as to the sanction required in each description of case are contained in the resolutions of the Government of India reproduced in appendix IV The term *na ul* means lands or buildings, the property of Government, situated within the limits of a municipality, notified area or small town not being a colony town It also includes encamping grounds, *sarais*, tanks, wells, burial grounds (where there is not a resident chaplain), and other property of a non agricultural character not being in departmental charge, wherever situated † The instructions issued by the Government of India as to the alienation of town sites will be found in appendix IV.

Construction of private canals by lessees

786 During the first thirty five years after annexation the policy described in this chapter was fairly successful To its complete success Nature has set up obstacles of a formidable kind Where the State owns most waste land the rainfall is usually too scanty to allow of dry cultivation except of very limited extent and most precarious character, and at the same time the water level is too deep to make well sinking easy or well working profitable Indeed in the south-west of the province the rainfall is so light and so capricious that wells unaided by river flood or canal water are of little use Some lessees were therefore encouraged to dig private canals to irrigate their grants, and a good deal was done to extend cultivation in this way, especially in the Shahpur district The canal owners used the water largely to irrigate their own lands, but gave any they could spare to their neighbours, charging a water-rate usually in the form of a share of the produce The people of the tahsils of Ferozepore bordering on the Sutlej under the energetic guidance of their Deputy Commissioner, Major Grey, constructed many years ago a number of small *zamindari* canals to water their proprietary lands It was inevitable that difficult questions should arise in connection with private canals, and it was evident that the elaborate provisions of the Northern India Canal and Drainage Act, VIII of 1873, were not well suited to many smaller irrigation works, whether private or not, which were managed or controlled by Government ' The owner of a private canal is not, like the owner of an irrigation well, independent of relations with all persons outside the ring fence of his own property. Even when the canal is constructed solely to irrigate the owner's land the interests of the State are involved in the detraction of water from the river or natural stream, and it is rarely the case that the supply channel can be constructed without its bed passing through land belonging to other persons When,

[illegible] nt,
[illegible] to

as is more commonly the case, irrigation is supplied not only to the canal owner's lands, but also to whatever area, however owned, may be commanded by the available supply, relations arise which, in the interest of canal owners and irrigators and of peace and good government generally, require to be controlled and regulated" * Moreover it was possible that a private individual having secured a monopoly of the water supply might charge others so high a price for it as to interfere with the legitimate claims of Government to land revenue These considerations led to the passing of the Punjab Minor Canals Act, No III of 1905

Punjab Minor Canals Act, III of 1905.

787 In that Act a very wide definition of canal is given † A number of irrigation works are included in the two schedules appended to the rules in volume II of the Punjab Land Administration Acts, and it is to these works that it in the first instance applies Schedule I is primarily intended for small irrigation works owned in whole or in part by Government or managed by Government officers or by any local authority, while schedule II is intended to include canals which are owned and managed by private individuals ‡ The local Government has power to make additions to the schedules or to transfer a canal from one schedule to another, or exclude it from both, by notification § Government may notify "any natural channel, lake, or other collection of water" Thereafter no one can, without its permission construct a canal to draw water from that source of supply ‖ The 6th section states the procedure to be followed by a Deputy Commissioner who thinks a canal should be constructed from such a source The levy of water dues by which term is indicated what was formerly called royalty, by Government from canal owners on account of the use of the water is legalized and regulated by section 8 Chapter III of the Act gives the Collector the powers necessary for the management of canals included in schedule I, and provides for the levy of water rates Both water dues and water rates to be collected by the officers of Government are recoverable as if they were arrears of land revenue ¶ The system of providing for yearly clearances by labour contribution (*cher*) is legalized in certain cases ** Power is given to draw up a record for a canal showing *inter alia* the custom or rule of irrigation and the rights to water or to erect mills †† Rights in or over any canal may be extinguished by the local Government on payment of compensation if the exercise of them is prejudicial to the interests of other irrigators or to the good management, improvement, or extension of the canal" ‡‡ Chapter IV applies to canals included in schedule II The local Government is given power to fix the limits of irrigation and the amount of the rates and to regulate the supply and distribution of the water to and from a canal and to order

* Statement of Objects and Reasons attached to Bill No 3 of 1903
† S[illegible]
†† Section 28
‡‡ Section 11

the preparation of a record of-rights * The Collector may appoint a manager in certain cases † and the local Government may assume control with the canal owner's consent, and in case of grave mismanagement or wilful and continuous breach of orders passed under section 39, without it If control is taken against the will of the owner he can require the Government to acquire the canal ‡ The local Government can undertake the collection of the water-rates leviable on a private canal, if requested to do so by the owner § Chapter V applies to canals of both classes It gives the Collector the necessary powers—

(a) to ensure that canals and the works connected with them are maintained in good working order and protected from injury ,‖

(b) to settle disputes among the shareholders ¶

It gives power to regulate the construction of mills,** and the flow of water in rivers, creeks, natural channels, or lines of natural drainage, and for the removal therefrom of obstructions †† It enables Government to acquire any private canal when it appears expedient in the public interest to do so.‡‡ The jurisdiction of the civil courts is excluded,§§ and light penalties are provided for certain offences under the Act ‖‖ Cases relating to such offences must be tried by magistrates of the 1st or 2nd class

Canal Colonization scheme

788 The efforts described in the preceding paragraphs to extend cultivation pale into insignificance before the results of the great schemes of irrigation which have been carried out in the last forty years These will be found fully described in the Punjab Colony Manual, Volume I.

* Sections 35 and 39
† Section 34
‡ Sections 36 and 37
§ Section 40
‖ Sections 52—7
¶ Sections 42 3
** Section 58
†† Sections 49—51
‡‡ Sections 45—8
§§ Section 60
‖‖ Section 71

CHAPTER XXIII

Revenue Courts and Revenue Suits

789 A revenue court is simply a revenue officer acting in a judicial instead of in an executive capacity There are therefore the same classes of revenue courts as of revenue officers and ordinarily a revenue officer of any grade is a revenue court of the same grade, and his jurisdiction in the one capacity is co extensive with his jurisdiction in the other *

Meaning of revenue court.

790 The distinction between revenue and civil courts is one of agency not of procedure It is well that cases of the kind referred to in paragraph 793 should be tried by officers whose daily work is concerned with the revenue and the produce of the land and with the record of rights and brings them into close contact with the rural population because the special experience so acquired conduces to a readier appreciation of the points at issue and greater skill in obtaining and appraising the evidence

Reason why certain classes of cases are heard by revenue courts.

791 The procedure of revenue courts is governed by the Code of Civil Procedure † and the Rules and Order of the High Court, so far as these are applicable Power to make special rules of procedure for revenue courts is given by section 88 (1) of the Tenancy Act, but it has not been exercised ‡ [illegible] regular and more subject to litigation is quite erroneous be every whit as careful as that of civil cases and in both classes of courts equal respect should be paid to positive injunctions of law and to considerations of equity

Procedure of revenue courts

792 At one time the jurisdiction of revenue courts was a good deal wider than at present and embraced all suits for landed property It is needless to cumber this chapter with an account of the powers of revenue courts at different periods

Jurisdiction of revenue courts at different times.

793 By section 77 (3) of the Tenancy Act as amended by section 2? of the Punjab Alienation of Land Act XIII of 1900 and Act III of 1912 seventeen classes of suits are reserved exclusively for the decision of revenue courts Eleven of these are suits between landlords and tenants regarding ejectment rent occupancy rights &c The other six are —

Suits reserved for revenue courts.

(a) suits for sums payable on account of village cesses§ or village expenses

(b) suits by a co sharer in an estate or holding for a share of the profits or for an account

* Section 77 (?) of Act XVI of 188? The sections referred to in this chapter are to sections of that Act

† Section 88 (?) (a)

‡ Sections 89—9? and 101 and two rules under section 106 (1) (f) deal with certain minor points of procedure The rules are 1? (i) and 13 of the rules under the Tenancy Act

§ See paragraph 94 of the Settlement Manual

|| See paragraph 93 of the Settlement Manual

(i) suits for recovery of overpayments of rent or revenue, or of any other demand for which a suit lies in a revenue court;

(j) suits by a landowner for sums due for the enjoyment of rights in or over land or in water;*

(k) suits for sums payable on account of land revenue or of any other demand recoverable as an arrear of land revenue, and suits by a superior landowner for other sums due to him as such;

(l) suits relating to the emoluments of [illegible] and village officers.

In [illegible] under the Punjab Minor Canals Act, [illegible] of 1905 [illegible] relating to the [illegible] of a canal or [illegible] in the use of the water of a canal or [illegible] the payment of any [illegible] or the [illegible] of the water from a canal the Collector shall [illegible].

Parties may be referred to civil courts for decision of some question in issue.

704. In any case pending before a revenue court, if, in its opinion, [illegible] any question in issue [illegible] by a civil court, [illegible] the court [illegible] to have [illegible] any of the parties to institute a suit in the civil court in order to obtain a decision of the question. [illegible] the revenue court must be [illegible] in accordance with the [illegible] of the civil court. [illegible] civil suit is instituted the revenue court may [illegible] the matter [illegible] thinks fit.

Powers of High Court as regards [illegible] revenue courts.

705. The [illegible] may [illegible] the High Court [illegible] jurisdiction [illegible] the High Court [illegible] civil or revenue court [illegible] jurisdiction.§

Suits reserved for Collectors.

706. [illegible] the ordinary jurisdiction is that of the Collector. [illegible] of revenue suits [illegible] are reserved [illegible] of an Assistant Collector of the first grade [illegible] by name [illegible] the only [illegible] requiring [illegible] the enhancement or reduction of the rent of an occupancy tenant.

Suits for [illegible]

707. [illegible] the present [illegible] of rents paid by occupancy tenants [illegible] in the [illegible] paragraph of the Settlement Manual. [illegible] the highest that can [illegible] the [illegible] permitted by the law, and in many cases it would be

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* See paragraph [illegible] of the Settlement Manual.

† Section [illegible].

‡ Section [illegible].

§ Section [illegible].

‖ Section [illegible] of Act XVI of 1887, and section [illegible] of Act [illegible] of 1905. Suits under section [illegible] and [illegible] are [illegible].

¶ Section [illegible] of Act XVI of 1887.

very unwise to do so The attention of all revenue officers is drawn to the necessity for caution in enhancing, at the conclusion of settlement operations, the rates of *malikana* payable by occupancy tenants in cases where, owing to enhancement of land revenue assessment, there has been a substantial automatic enhancement in the amount of *malikana* calculated at the previous rate Before the passing of the Tenancy Act of 1887 the payments made by occupancy tenants in addition to the land revenue and cesses were in some parts of the country very trifling, and throughout whole districts enhancement was barred by entries in the village administration papers

Severe enhancements deprecated

798 One object of the Act was to enable landlords to increase the rents of privileged tenants when these were very low This intention must not be defeated, but severe enhancements, which would raise the rent of particular occupancy tenants much above the standard prevailing in the neighbourhood in the case of other tenants of the same class should be avoided Nor may it always be fair to exclude from consideration the rents usually paid by tenants at will in the neighbourhood It used to be quite common in some parts of the Punjab, especially in the south eastern districts, for such tenants to pay no rent properly so called The demand of the harvest on account of revenue, cesses and village expenses was spread over the cultivated area, and tenants equally with landowners simply paid their quota This primitive state of things is probably disappearing everywhere But wherever it exists or where for any reason the rents paid by tenants at will are very light, care must be taken to avoid heavy enhancement in the case of occupancy tenants

Decree bars further proceedings for ten years

799 Considering that over two millions of acres in the Punjab are tilled by occupancy tenants paying cash rents, the number of suits for enhancement is surprisingly small * A decree raising the rent of an occupancy tenant or rejecting on its merits a claim for enhancement is a bar to any further proceedings with the same object for a period of ten years †

Suits within jurisdiction of Assistant Collectors of the 1st Grade

Suits to establish right of occupancy.

800 Of the ten classes of cases which can be heard by Assistant Collectors of the 1st grade but not by Assistant Collectors of the 2nd grade the first calling for mention is suits to establish a right of occupancy The grounds on which such a claim can be founded are discussed in paragraphs 208—211 of the Settlement Manual In the Punjab length of occupancy does not under any circumstances ripen into occupancy right ‡ The status of tenants has therefore in the vast majority of cases been finally settled long ago and the number of suits for occupancy right is not large Most of them are probably launched in reply to ejectment proceedings with small prospect of success

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* Further information on this point can be obtained from statement XV of the annual Land Revenue reports

† Section 24 (3) of Act XVI of 1887 See also as regards compensation for improvements in enhancement cases paragraph 804

‡ See paragraph 207 of the Settlement Manual.

Suits relating to ejectment

801 The next three descriptions of cases to be noticed form one group They are suits—

(a) by landlords for the ejectment of tenants,
(b) by tenants to contest ejectment notices, and
(c) by tenants to recover possession or compensation in cases of wrongful ejectment

Suits to eject occupancy tenants and tenants for a term of years

802 The summary procedure by which a tenant at will can be ousted from his holding has been described in paragraphs 60—62 It is of course inapplicable to the case of occupancy tenants and tenants for a term exceeding one year Such tenants can only be ejected in pursuance of a decree of a revenue court * or in the case of an occupancy tenant when a decree for an arrear of rent remains unsatisfied after due warning † The grounds on which an action for the ejectment of an occupancy tenant can be brought are stated in the 213th paragraph of the Settlement Manual The same reasons may be pleaded in the case of tenants holding for a term under a lease or a decree or order and in addition any (other) ground which would justify ejectment under the contract decree or order ‡ When the landlord asserts that the tenant right has been forfeited by failure to cultivate the matter must be dealt with in a reasonable way The words used in the Act are ' that he (the tenant) has without sufficient cause failed *to cultivate the land in the manner or to the extent customary in the locality in which the land is situate* § An occupancy tenant who from loss of cattle or for other good reason is unable to till his holding in a year of great drought must not be made to endure the additional misfortune of losing it altogether Even where the tenant is not entirely free from fault it is not always expedient to declare his occupancy right forfeit The 48th section of the Act gives to the court a large discretion instead of passing a decree depriving the tenant of his land to order him to remedy or to pay compensation for any injury caused to the landlord by the act or omission which is the foundation of the latter s claim Ejectment suits are fortunately not at all common in the Punjab ||

Suits to contest notices of ejectment

803 Every ejectment notice warns the tenant at will on whom *it is served that he must if he intends to contest his liability to be* turned out institute a suit in a revenue court within two months ¶ Such suits are pretty numerous and are often successful If the tenant fails to prove his case a decree for his ejectment is passed **

Claims for compensation

804 In all suits by a landlord for enhancement of rent or for ejectment or by a tenant to contest an ejectment notice, it is the duty of the court to direct the tenant to put in any claim he may have for compensation for improvements In the cases in which his ejectment is the question at issue he must also be told to include in his claim any

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* Section 42
† See paragraph 65
‡ Section 40 (c)

. . . . to statement XVI

compensation for disturbance to which he considers himself to be entitled * If compensation is found to be due, any decree for enhancement or ejectment that may be passed cannot be executed till the landlord pays into court the amount for which he is held to be liable †

Suits for recovery of possession.

805. If a tenant has been ousted by force or by any proceeding not authorized by the Tenancy Act, or if he is ejected after the issue of a notice, whose validity he has failed to contest by a suit, he may, within one year of dispossession, bring an action in a revenue court for the recovery of his holding, or for compensation, or for both ‡ He cannot bring a suit under section 9 of the Specific Relief Act of 1877 §

Suits to cancel alienations by occupancy tenants

806 The powers of alienation possessed by different classes of occupancy tenants before the passing of the Punjab Alienation of Land Act, XIII of 1900 (as amended by Punjab Act No. I of 1907), are explained in the 214th paragraph of the Settlement Manual The law does not contemplate the forfeiture of the tenant's right of occupancy as the consequence of an inadvertent, or even wilful exceeding of his powers of dealing with his holding It merely provides that irregular transfers are voidable at the instance of the landlord and allows him to bring an action for the cancellation of the alienation or for the dispossession of the transferee or for both purposes If the suit is successful the plaintiff and his tenant simply resume their old relations, provided the latter has not parted with the possession of the land to the transferee ||

Suits within jurisdiction of Assistant Collectors of the 2nd grade suits for arrears of rent

807 The most important of the three classes of cases within the jurisdiction of Assistant Collectors of the 2nd grade is suits for arrears of rent More than one half of the total litigation in revenue courts in the Punjab falls under this head Rent cases are for the most part heard by *tahsildars* and *naib tahsildars* ¶ They are often by no means simple in their nature After the first question at issue, whether rent has or has not been paid, has been settled the problem remains of determining what amount should be decreed Seeing that in the vast majority of cases rent is paid in kind this involves a valuation of crops of uncertain yield and whose price varies extremely from year to year The area under each crop grown in the harvest for which rent is claimed can be excerpted from the *khasra girdawari* failed crops being of course left out of account The remaining steps of the calculation are the same as those taken by a settlement officer when he is framing his net assets estimate to arrive at the rental of an assessment circle ** The average outturn per acre of each crop is ascertained as accurately as possible and the produce is obtained by multiplying the acreage under each crop by its assumed yield A table showing the settlement officer's estimate of the outturn per acre of the principal crops in each assessment circle is available For the purposes of a rent suit his figures

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* Section 70 (1)
† Section 70 (2)
‡ Sections 50 and 50-A
§ Section 51
|| See No. 6 P R 1893 Revenue
¶ Assistant Collectors of the 2nd grade cannot try any case in which the rent or sum claimed exceeds Rs. 500, or if they are *naib-tahsildars* Rs. 100, [Tenancy Rules 1 (i) and (ii)]
** See paragraph 317 of the Settlement Manual.

CHAPTER XXIV.

MISCELLANEOUS

Meteorological observations and returns.

816 At some important stations there are observatories under the direct control of the Director General of Observatories A note on the climatic conditions of each month by the Meteorological Department of the Government of India is published in the Gazette

At other head quarter stations and at tahsils there are rain gauges in charge of the assistant to the district kanungo and the tahsil office kanungo, respectively Registers are kept up by the district kanungo and the tahsil office kanungos in which the rainfall is recorded The head quarters register contains columns to show the rainfall at every recording station in the district which is in charge of the district kanungo At the beginning of each month a return of the rainfall of the past month with notes on the agricultural situation is furnished to the Director of Land Records Besides the rain gauges in charge of revenue officials others have been put up in a number of places where a record of the local rainfall was considered necessary These are in charge of competent officials, such as Sub Assistant Surgeons The rainfall is also recorded by officials of the Irrigation Department and at the chief agricultural farms

Whenever the Deputy Commissioner, or any Assistant Commissioner or Extra Assistant Commissioner visits a tahsil, he should inspect the rain gauge and register, and satisfy himself as to the capacity of the office kanungo to observe and record the rainfall correctly The result should be communicated to the Director of Land Records and to the Meteorological Department of the Government of India It should be part of the duties of one of the officers at head quarters to inspect the rain gauge and register at regular intervals

Reports on the snowfall for the months of January to May are sent by the Deputy Commissioners of Simla, Kangra, Gurdaspur, Rawalpindi and by the Assistant Commissioner in Kulu to the Meteorological Department of the Government of India, a copy being furnished at the same time to the Director of Land Records A special report is also sent, if possible, about the middle or end of July

A return showing the monthly rainfall at each district head quarters in the province is embodied in the Director's yearly Season and Crop Report *

Crop reports.

817 From fifteen districts a weekly telegraphic report is sent to the Director of Land Records in which the rainfall, the progress of agricultural operations, the prospects of harvest, any serious damage done [illegible] ed failure of pas [illegible] ie retail price of [illegible] objects of those

*For detailed instructions as to the record of rainfall and snowfall Financial Commissioners Standing Order No 3" should be referred to

reports to ensure that the approach of scarcity anywhere in the province shall be signalled Similar reports are sent from every district in which scarcity is impending or famine or other abnormal circumstances exist The Deputy Commissioners of the remaining 14 districts are also required to submit by letter a summary of the weekly weather and crop conditions during the period from the 1st of April till the 15th October (inclusive)

Deputy Directors of Agriculture submit similar reports, covering the same ground, to the Director who forwards them through the Financial Commissioner Development, to the Minister

For some of the principal spring and autumn crops estimates are furnished by Deputy Commissioners and Deputy Directors of Agriculture to the Director of Agriculture at intervals generally of about two months There are therefore three estimates for each crop The first and second are preliminary and corrected estimates of the area sown, the third prepared after the culture harvest inspection gives the actual area of crops sown, and an estimate of the outturn In the case of cotton and wheat a fourth estimate is also required

A statement showing the results of the kharif harvest accompanied by a brief note is sent by Deputy Commissioners to the Director of Land Records not later than the 10th of December The district returns with a general note by the Director are published in the Gazette The rabi crop return forms one of the statements appended to the Crop and Season report which Deputy Commissioners send to the Director of Land Records and to the Commissioner by the 10th of July each year

The note on each harvest should include a concise account of the factors which have influenced the area or the yield of important staples

The note should be prepared by the Revenue Assistant who should base it upon the reports of tahsildars and his own personal observations Both the Revenue Assistant and the tahsildars should check their own personal observations by the opinions of reliable agriculturists

The provincial Crop and Season report is drawn up by the Director of Land Records *

Crop experiments.

818 The most reliable crop experiments are those conducted by the settlement staff when a district is under re assessment But experiments are also made harvest by harvest in all the districts of the province, except Simla by the revenue and agricultural staff and the results reported to the Director of Land Records and Director of Agriculture, respectively They should be made by naib tahsildars tahsildars, Revenue Assistants and Sub Divisional Officers in the case of revenue staff and by Agricultural Assistants, Extra Assistant Directors of Agriculture and Deputy Directors of Agriculture in the case of

*For detailed instructions as to weather and crop reports monthly agricultural prospect reports estimates of area, yield of certain crops and Season and Crop report, see Financial Commissioners Standing Orders Nos 36 37 38 and 53

agricultural staff Detailed instructions will be found in th Financial Commissioners Standing Order No 9 A

Prices

819 The Deputy Commissioners of the following districts report on the 1st and 15th of each month the wholesale prices of the principal food grains prevailing at the markets noted against each —

District	Market
Gurgaon	Palwal
Ambala	Ambala Jagadhri
Jullundur	Jullundur
Ludhiana	Ludhiana
Ferozepore	Ferozepore Abohar
Lahore	Lahore
Amritsar	Amritsar
Gurdaspur	Gurdaspur Pathankot
Sialkot	Sialkot
Shahpur	Sargodha
Jhelum	Jhelum
Rawalpindi	Rawalpindi
Attock	Campbellpur
Montgomery	Okara Montgomery
Lyallpur	Lyallpur
Multan	Multan

The prices of the different crops obtaining in each assessment circle at harvest time are entered in the crop abstracts in the circle note book in accordance with reports received from district kanungos A register of the retail price at head quarters of the same crops and of salt and firewood is kept up by the district kanungo The prices recorded are those current on the fifteenth and the last day of each month From the register a return showing the retail prices of some of the chief staples and of salt and firewood is compiled and sent to the Director of Land Records on the 1st and 16th of each month An officer not below the rank of Extra Assistant Commissioner either the Treasury Officer or some other member of the staff whose work ordinarily keeps him at head quarters should be made responsible for checking the figures of retail and wholesale prices in the returns and each price current should bear his attestation * Though the prices recorded are only those of particular days it is his duty to keep himself informed from day to day of all variations in the market

In districts where there is a cantonment the same officer should be made responsible for the preparation of the monthly lists of bazar prices furnished to the Indian Army Service corps

*Government of India Revenue Department No 6 150 dated 20th March 1872

Their accuracy is a matter of great importance, as they may be used as the authority for the payment to Indian troops of compensation for dearness of provisions * A copy of the military bazar prices current is sent monthly to the Director of Land Records for scrutiny

The industrial surveyors working under the control of the Director of Industries Punjab, will also check the records of retail prices at the head quarters of districts once a month They will report the result of their check to the tahsildar and will not give any directions to the revenue staff whose responsibility will remain unimpaired

820 Locusts are frequently seen in the province but as a rule they speedily disappear after doing an amount of damage which though it may be small in proportion to the total outturn may be very serious for the cultivators whose crops have been attacked In some seasons, however vast swarms invade the province and commit widespread devastation Their power of multiplication is enormous Whenever locusts are observed in a district measures should be taken to ensure— **Locusts**

(a) that the laying and hatching of eggs shall be promptly reported and

(b) that measures shall at once be taken for the destruction of the eggs and of the young nymphs when hatched

An account of the life history of locusts with detailed instructions as to the best means of destroying their eggs and the young insects before they acquire wings will be found in appendix V

Once the locusts have begun to fly no measure hitherto devised appears to be really effective The use of aeroplanes to drop dust powder has not been tried in the Punjab Flame guns can be used to kill the insects as they are resting at night, but this measure is obviously of very limited value

821 The rules for the ... d on the march will be found i... No 58 In carrying them c... to ensure on the one hand that nothing is taken without payment and on the other that the reasonable requirements of regiments are met It is important that civil officials should be the medium of communication between officers commanding troops on the march and the country people No definite rule on the subject can be laid down, but Deputy Commissioners must invariably accredit to the Commanding Officer an official of sufficient standing, powers, and intelligence to accompany troops on the march, or, if the number of the troops is small, to be present at each encamping ground on their arrival and departure When the detachment or force on the march consists of European troops, an English speaking official should, if possible, be sent † Grass cutters of regiments on the march should on arrival at encamping grounds be directed to the best places for cutting grass Private property must

*For detailed instructions as to price lists see Financial Commissioners' Standing Order No. 39

†Punjab Government circular No 12 1724, dated 31st July 1883.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

824 The principal epidemic diseases of equines and bovines are enumerated below —

Important epidemic diseases among live-stock.

Equines	*Bovines*
Glanders	Rinderpest
Surra	Hæmorrhagic septicæmia
Lymphangitis epizootica	Anthrax
Dourine	Black quarter
Anthrax	Foot and mouth disease
Strangles	
Gillar	
Pleuro pneumonia contagiosa	

As a result of the propaganda work done by the Civil Veterinary Department with regard to contagious diseases and their prevention live stock owners readily admit the usefulness of preventive inoculations against the most serious contagious diseases such as rinderpest and hæmorrhagic septicæmia

The occurrence of epidemic disease amongst live stock in a village is reported by the lambardar to the patwari who sends the information by postcard (supplied by the Civil Veterinary Department for this purpose) to the nearest veterinary assistant concerned On receipt of information from the patwari the veterinary assistant adopts the following procedure —

If the report relates to an outbreak of equine epidemic disease in any part of a selected district where such disease is dealt with by the Army Remount Department he will merely transfer the post card to the local veterinary assistant of that department for disposal in other cases he himself will proceed at once to the scene of the outbreak for the purpose of taking the necessary remedial and preventive measures On arrival at the spot at which the contagious disease has been reported to exist the veterinary assistant takes all requisite steps for the treatment of the disease and for the prevention of its spread If the situation is sufficiently serious to require this the veterinary assistant warns his immediate superior that his presence is needed and the latter will order to the spot such extra staff as may be necessary When the nature of the disease has been ascertained, the veterinary assistant or veterinary assistant surgeon fills in a printed form provided for this purpose and submits it through the proper channel to the Superintendent of the Circle for information Similar information is also sent to the Deputy Commissioner through the tahsildar on another form supplied by the department Whenever a serious outbreak of epidemic disease occurs in a district or, whenever there is a danger of the disease spreading into the adjacent districts the Deputy Commissioner intimates the occurrence to the Commissioner of the division and also to the Deputy Commissioners of the neighbouring districts in order that due precautions may be taken When epidemic disease appears in a camp or cantonment or amongst animals on a military line of communication the military authorities have instructions to inform

the nearest civil authority without delay Such information is immediately communicated to the local veterinary assistant or veterinary assistant surgeon and the Superintendent of the Circle in which the infected area lies Similarly when any epidemic disease amongst animals appears at a horse or cattle fair or in the neighbourhood of a cantonment or on a line of military communication the fact and the nature of the disease is at once reported to the nearest military authority

District arboriculture

825 The importance of arboriculture to a province so bare and arid as was the greater part of the Punjab was early recognised and in 1852 the Board of Administration issued orders designed to increase the fuel supply The same orders provided also for the comfort of travellers, they sanctioned remissions of land revenue on plantations and for the grant rent free of plots of Government land at every three miles along the main roads to persons who would undertake to sink wells and plant groves Zamindars receiving inams from Government were to be required to raise one *kanal* of young trees for sale or distribution among their tenants Trees were to be planted by official agency round all Government buildings of every description and along roads under construction and officers in charge of canals were to raise plantations at every three miles along their banks and at every jail and every tahsil nurseries of young trees were to be kept for distribution

826 *Cancelled*

Progress of district arboriculture

827 The success of all arboricultural operations depends so much on the taste and opportunities of individual hard worked officers that progress has been intermittent and sometimes slow, but no one who has toured the province can fail to appreciate the vast amount of good work that has been done Almost all the main roads run through avenues and the great canals have everywhere well wooded banks Most Government buildings are surrounded by trees and nearly all civil stations have a pleasing appearance The mileage of avenues along roads and canals must run into many thousand

Tree planting by private persons

828 The rules regarding the encouragement of tree planting by private persons will be found in paragraphs 511 512 of the Settlement Manual Under those relating to plantations of trees the Deputy Commissioner can at any time send up proposals to free the land from assessment Those relating to wayside groves* and the making of tree planting a condition attached to the grant of inams must be considered as now obsolete No compulsion can be exercised to secure the planting of private lands and men with very small holdings cannot afford to plant trees except a few in the immediate vicinity of a well. But they can be encouraged to preserve what trees they have, and men with more land can be helped by the distribution of seedlings, and especially, where the local conditions are favourable, of fruit trees from Government nurseries

Tree-planting by public agency

829 The expenditure on the planting of trees along roads is met by the authority which is responsible for the maintenance of the roads,

*Financial Commissioner's circular No 4 of 1882

that is to say, either by the Public Works Department or the district boards or municipalities So far as the work is in charge of local bodies, obviously a great deal must depend on the interest shown in it by the Deputy Commissioner and Commissioner A general superintendence is exercised by the Conservator of Forests, and his advice should be asked on doubtful points Much help may be derived from the manual of arboriculture In this branch of their work Commissioners correspond direct with the local Government It is important that there should be a definite scheme as regards tree planting, and under existing orders working plans for periods of from 3 to 5 years should be drawn up for each district:—

> "The working plan should be of a simple nature, and it may be best, as suggested by some of the officers consulted, to concentrate operations on one or more selected roads in each tahsil and to complete the planting of trees on such road or roads before other roads in the tahsil are taken up When the plan is sanctioned, the Conservator of Forests should be informed through the Commissioner at the beginning of each year of the operations it is proposed to put in hand during the year, and a report should be submitted at the close of the year showing how far these operations have been carried out In the case of roads already planted with trees, it should also be stated what measures have been taken to replace by the planting of young trees losses that may have been caused through trees being blown down by storms or the removal of which has been otherwise necessitated As suggested by the Conservator* where this has not already been done, a map on a fairly large scale should be prepared and hung up in the Deputy Commissioner's office showing the actual state of the avenues, &c in the district—a system of lines, full broken, or dotted, showing whether a road is fully planted, whether there are gaps to be planted up or only a few trees here and there * * * * * * Arrangements have been made at the Imperial Forest Research Institute and College at Dehra Dun as well as at Changa Manga for putting district board officials through a simple course of training * * * * * * * Where feasible, Deputy Commissioners should make over to some member of the district staff the immediate supervision of the operations of the whole district, but at the same time the responsibility of the tahsildar for the work in his tahsil should be maintained and encouraged"

830 The Government of India issued a resolution,† No 21, dated 11th July 1905, on the maintenance of avenue trees along roadsides, a few extracts from which may fittingly conclude the discussion

Orders of Government of India.

* Letter No 2790 dated 21st October 1901

† Proceedings September 1905, Nos 12—17 A., Forests, file No 32

of this subject —

"The question is one of real importance, because of the welcome shade afforded thereby to wayfarers, the substantial addition to the beauties of the landscape, and the mitigation of the discomforts of long journeys by road. The practice of planting avenues of this description was in earlier days as much a feature of British administration as the construction of the roads themselves, and some of the older avenues on the main roads of India still supply the most agreeable of memorials to the taste and provision of their founders The practice has nowhere died out, and it is still fairly widely, though intermittently and unmethodically, pursued In recent years, however, great havoc has been caused in some tracts by the mutilation and cutting down of timber in times of famine, and observation tends to show that these ravages have only been partially repaired In other parts of the country the importance of the matter appears to have been imperfectly kept in view, and, from the want of a sustained policy, money and effort have been wasted, and in many places avenues formerly in existence have been allowed to disappear or to become disfigured by unsightly blanks

* * * * * * * * *

"The Government of India are of opinion that the authority responsible for the construction and upkeep of any road, upon which the provision of shade is required for the comfort of wayfarers, should consider it almost as much its duty to maintain along the road a line of shade-giving trees as it is to keep the roadway and bridges in proper order, and should allot its available funds accordingly, and more especially it should not manage these avenues so as to derive from them a net profit, until all the needs of the roads under its charge in matter *of trees have been supplied* * * * * The Government of India are far from discouraging all reasonable measures devised in order to make an income from the avenues, which, taken as a whole, form a very valuable property Indeed, they are of opinion that in many

healthy shade-giving trees, and more especially such trees as give shade in the hot weather, each having ample room to develop its natural shape, such as may be seen in some of the fine old avenues left to us by the far-sighted officers of an earlier generation But they would suggest that each authority having roads in its charge

not yet provided with avenues, should be required to keep a separate account of its income from and expenditure on arboriculture, and, until the needful roadside avenues are completed, to spend on arboriculture a sum at least equal to the income derived from the existing roadside trees Moreover, in considering the provision of funds generally for the purpose, local Governments should look to the net expenditure, rather than to the gross expenditure, on this object In this connection it is material to observe that the liberal grant recently made to district boards from general revenues will enable them to make better provision for all their duties, including arboriculture

"In most provinces the responsibility for roadside trees devolves partly on the Public Works Department and partly on local bodies In either case it is essential that effort should be concentrated and properly directed, and that the work of planting and tending the trees should follow a
' rule provision should
n existing avenues;
have been planted,
but in which the trees are not yet beyond the reach of danger from drought or cattle, and, lastly, for planting new avenues In taking up new work, preference should be given to those roads which are most frequented and where avenues can be established at the least cost, and no more should be attempted at one time than can be thoroughly established by means of the money and supervision available Care should be taken that the most suitable kind of tree is chosen, preference being given to fruit trees, where otherwise suitable, and to trees which will give shade, rather than to trees which merely develop a rapid growth The character of timber must also be selected with special reference to the dryness or moisture of the soil In some cases it may be possible to provide means for the watering of trees by the utilization of neighbouring sources of supply Local Governments are requested accordingly to see that, where this has not already been arranged for, a clear working plan, similar to those prepared for Government forests, and accompanied by the necessary maps, is prepared for each district or Public Works division concerned The working plans should be passed by some responsible officer, such as the Conservator of Forests, or the Director of Land Records or Agriculture, or, in the case of Government roads, the Superintending Engineer, and arrangements should be prescribed for ensuring that they are not lost sight of by the local bodies or officers concerned The services of the local forest officer, where available, might be utilized both in the

preparation of working plans and in inspecting and advising upon the actual operations. Many cases could be cited in which, when gaps occur in an old avenue, trees of a different and often heterogenous description have been carelessly introduced in the vacant places, both interrupting the uniformity and spoiling the future appearance of the avenue.

* * * * * * * *

"The subordinate in direct control of arboricultural work, whether under local bodies or under the Public Works Department, should, as far as possible, receive a training of some kind in the technical branches of the subject, either at some Government garden or at a forest school or plantation. The Government of India are aware that funds cannot always be forthcoming for the entertainment of full-time officials of the 'forester' class for arboricultural work, and they also recognize that the success of roadside plantings depends far more on strict supervision than on technical details; but they are at the same time convinced that even a few months' training in the technical part of the work will add to the efficiency of the present controlling staff, and every facility will be given in Forest and Agricultural institutions under the control of the supreme Government to provide a suitable training for such men as may be sent to them for instruction by local bodies or the Public Works Department. It is suggested that such facilities should also be arranged for in similar institutions controlled by local Governments.'

"Good results have been obtained in some tracts by entrusting certain supplementary work, such as the planting of detached pieces of road or the filling up of blanks in avenues, to village or private agency and paying by results, and in others, private enterprise has been stimulated by rewards and by revenue-free grants. The encouragement of private tree-planting by these and other means is, in the opinion of the Government of India, worthy of the special attention of the local Government, and they are requested to consider whether anything further can be done in this direction than is effected at present.

"It is essential that, as far as possible, the sympathies of the neighbouring population should be enlisted in the preservation of the roadside trees. In the case of fruit trees, the produce of which is of little value, the cultivators of the adjoining field should be allowed to take the fruit on condition that they protect the trees from serious damage. And when a fodder famine is prevalent, judicious arrangements should be made to utilise the

edible leaves of trees along roadsides as fodder for the cattle at reasonably cheap rates This does not mean that the trees themselves should be heedlessly mutilated, or cut down but that a temporary sacrifice of sylvan amenity may be gladly accepted in the interest of saving valuable animal life

There is one practice that calls for particular deprecation It is that of lopping or otherwise injuring a beautiful avenue when preparations are being made for the reception of a high Government official In the anxiety to make proper arrangements for a party or procession proceeding in carriages it is not an uncommon thing for the district authorities to cut away all the branches from the roadside trees within a certain distance from the ground serving thereby no purpose whatsoever and inflicting damage which it may take years to repair Officers of Government should maintain a vigilant watch in order to prevent this unthinking and regrettable form of depredation

831 All mines of metal and coal all goldwashings and all earth oil belong to Government The law as to quarries is explained in paragraph 191 of the Settlement Manual All kankar beds have with rare exceptions been declared to be the property of the State The orders on this subject will be found in paragraphs 6—10 of the Financial Commissioners Standing Order No 42

Minerals and quarries

Royalties on mines and quarries have been held by Government to be identical in their nature with land revenue The principles on which rent or royalty is taken are laid down in a despatch No 41 of 8th August 1861 from the Secretary of State for India in Council to His Excellency the Governor General In this despatch it is stated that if there is any necessity for choosing between a rent and a royalty a royalty should be preferred but that a combination of royalty and rent so arranged that the rent should merge in the royalty whenever the latter exceeded the former in amount would be preferable to either a rent or a royalty alone

832 Rules as to treasure trove are contained in Punjab Government consolidated circular No 48

Treasure trove

833 (i) In about 1868 the Government of India deputed Dr Day to enquire into the economic conditions of the fisheries of India, as a result of frequent complaints from all the provinces regarding the wholesale slaughter of fish A second enquiry by Mr H S Dunsford was undertaken in 1911 in the Punjab and he corroborated Dr Day's statements and suggested various remedial measures for the preservation of fish in the province

Creation of the department of Fisheries in the Punjab.

As a result of Mr Dunsford's report Mr G C L Howell I C S was sent to America to study fishery problems and on his return was appointed Director of Fisheries in 1912 with a small staff, to collect data in order to enable Government to decide whether

Fisheries department in the Punjab was justified, and what steps should be taken to preserve the fish supply As a result of his efforts the Punjab Fisheries Act, II of 1914, came into being On his vacating the post of Director in November 1915, the post was abolished, but it was decided to retain the department under a Warden of Fisheries which post was accordingly created

Scope of the rules.

(ii) The Punjab Fisheries rules and regulations are all drafted either under the Indian Fisheries Act, IV of 1897, or the Punjab Fisheries Act II of 1914 Act IV of 1897 and the rules thereunder prohibit the use of poison, dynamite and other explosive and obnoxious substances for killing fish and close cert[illegible] grounds of important species of fish, to [illegible] periods The rules framed under the Pun[illegible] and merely prohibit the use of fixed engines and small meshed nets and the diversion of water for killing fish in order to save the small fry and immature fish These rules are applied to waters which are not "Private Waters" These can also be applied to "Private Waters" with the consent of the owners thereof

These rules were first issued in Kangra in 1916 and are now in force in 25 districts of the province They also regulate fishing by prescribing the kinds of gears which are permitted, the seasons during which they may be used and the fees payable for the various kinds of licenses

Licenses

Briefly, licenses are of two kinds—general and angling The former include nets and gears of all kinds as used by professional fishermen, and the latter for rod and line only, and are for the most part taken out by sportsmen

There are different kinds of angling licenses and the fees thereof vary considerably—for instance—provincial licenses canal head works licenses, trout waters and district They are obtainable from Deputy Commissioners of districts from the Warden of Fisheries, and in case of canal heads works from the Executive Engineers, Irrigation Branch

In 18 districts individual licenses are issued to fishermen, and in 7 districts, in the western Punjab and or canals leases are auctioned annually and a license issued to the highest suitable bidder along with a number of permits for use by his nominees or agents

In two districts a size limit for *mahsir* and trout has been prescribed below which no fish of these species can be killed The offering or exposing for sale or barter of *mahsir* and trout killed in contravention of the rules has also been prohibited in these two districts

The breaches of the rules are compoundable and compensation, not exceeding Rs 10 for each breach is charged Such breaches are also punishable with a fine up to Rs 100

(iii) As almost all the rivers and streams in the Punjab are not the exclusive property of any person rules under the Punjab Act have been applied to them

(iv) The conditions on which the waters are licensed or leased are — **Conditions.**

(a) that the licensees are bound to fish in accordance with the conditions laid down in the rules,

(b) that they are bound to report breaches of the rules which come to their notice to the Deputy Commissioner, tahsildar, or any officer of the Fisheries department,

(c) that if, according to the entries in the *wajib ul arz* or record-of rights the owners of any villages are entitled to a share of the catch of fish from the waters within those villages, the licensee shall be bound to give that share to the owners,

(d) in the districts in which fishing is leased, the lessee is required to pay the lease money in advance or by three equal instalments, in the latter case he is required to furnish sufficient security for the payment of the future instalments short payments are recoverable as arrears of land revenue

If a licensee is convicted for a breach of the rules, his license can be cancelled

Changes in limits and numbers of tahsils districts and divisions

834 An increase in the number of divisions into which a province is divided can only be made with the sanction of the Governor-General in Council But the local Government may add to the number of tahsils and districts and may vary their limits and those of divisions * Such changes are generally unpopular with the people, and can hardly fail to produce some confusion in administration They make the comparison of past and present statistics difficult, and are apt to be embarrassing when the time for a general re assessment comes round They should therefore only be proposed when they are essentially necessary for the proper management of the estate or tract concerned †

834 A Any boundary disputes with Indian States which arise should be dealt with promptly The procedure to be followed in such cases will be found in Punjab Government consolidated circular No 25 The adoption of fixed boundaries between the Punjab and Indian States where the line of demarcation follows in the main the course of a river‡ ought greatly to reduce the number of such disputes

In the case of land boundaries the operations of the Survey of India Department and successive settlement operations have left little room for doubt as to the actual border No difficulties are likely to arise, and any that do arise should be easily settled if the orders requiring Deputy Commissioners whose districts march with Indian States to inspect the boundary or cause it to be inspected every year are carried out § The *Darbar*

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* Section 5 of Act XVII of 1887

† Government of India Home Department circular No 194—203 dated 2nd June 1870 For reports to Surveyor General of changes of boundary see Financial Commissioners Standing Order No 25

‡ See paragraph 437

§ Government of India Foreign Department resolution No. 1758, dated 21st August 1871 The inspection should be noticed in the annual revenue report

should be informed when the district officer proposes to make his inspection, and asked to depute a representative of the State to meet him. The state of the boundary pillars should be noted and arrangements made to carry out any necessary repairs

Skeleton maps

835 Special $\frac{1}{4}''$ district maps showing village, tahsil and district boundaries, railways, main rivers, canals, roads and other prominent features as well as a few of the more important places, are issued by the Director of Land Records for use in illustrating new proposals and reports, and can also be conveniently bound into district statistical atlases, the necessary additions being made under the Deputy Commissioner s orders

Subsidiary to the above, a limited number of $\frac{1}{4}''$ maps are printed [illegible] sheet being added with alphabetical [illegible] ernacular These maps are prepared [illegible] and are reductions of the published survey sheets

Gazetteers

836 The revision of the gazetteer is undertaken at each settle ment by the settlement officer * But to assist him in his task and at the same time to make the gazetteer more useful, it should be kept up to date in the interval between settlements Deputy Commissioners have therefore been ordered to have a copy of the district gazetteer interleaved with good writing paper and to maintain a gazetteer note book

In the first they should enter brief notes correcting any statements in the text which seem to them to have always been or to have become, erroneous, or which need to be supplemented For instance after a new census it is well to correct all figures relating to population The notes made in the interleaved copy of the gazetteer should be very brief

The gazetteer note book should contain longer entries on any matters which the Deputy Commissioner thinks will be of use in the preparation of the new edition Each entry should be marked in bold figures with the serial number of the gazetteer heading under which it will fall No two entries should appear on a single page Only one side of the paper should be written on, so that the settle ment officer may be able to remove the leaves and make use of the entries without recopying them When the information is available in a convenient form in the district or other records a full reference to the papers in question, with a brief indication of the nature of the material which they contain, will suffice

[illegible]

and European, official and non official For example, it may be possible in this way to get better notes on the botany or geology of a district, its manufactures, its archæological remains, or its folklore

* See paragraph 552 of the Settlement Manual.

than the Deputy Commissioner or the Settlement Officer may have either the time or the special knowledge to compile If vernacular papers are to be made use of, they should be composed in a simple style, and the handwriting should be neat and clear

The latest instructions as to the revision of district gazetteers are contained in Government of India, Home Department, letter No 3375, dated 1st November 1902

"The chief difficulty which stands in the way of the periodical revision of the existing Gazetteers, and the reason which has caused so large a portion of their contents to become obsolete is that they contain a mixture of permanent matter, such as that relating to the history, physical characteristics, religion, ethnography, etc , of the district , of matter which changes gradually , but as a rule slowly, such as that dealing with the agricultural and economic conditions , and of ephemeral matter, mainly statistical which soon becomes out of date For this reason when a new District Gazetteer is issued it should consist of two volumes, A and B, compiled on the following lines —

(1) In the first edition all descriptive matter should go into the A volume , but that volume should contain only such general figures, (incorporated in the letter press) as are necessary to give point to remarks in the text The arrangement of subjects in this volume should follow the order prescribed for the provincial articles in the Imperial Gazetteer All detailed statistics should be relegated to the B volume, which would at first consist only of these and of such notes as may be necessary to elucidate them

(2) On the occasion of the next revision the statistics in the B volume should be re compiled, and this volume should be expanded by adding to it any matter that might be required to correct or supplement the A volume Thus if there had been a famine since A was published, if a new railway had been opened, and so forth, information on these points would appear in B as supplementary to the appropriate chapters in A

(3) This process would go on till the time had come for revising the A volume Then all the supplementary text matter should be incorporated in the new A volume and B would revert to its original form as a statistical appendix with explanatory notes

(4) A new edition of the B volume should be brought out after each census The revision of the A volumes must be left to the discretion of the local Governments The occurrence of a new settlement will ordinarily be the best time for such revision , but it may well happen that plenty of copies of the original A volume are still available, and that the settlement and lapse of time have not wrought any important change in the conditions of the district. In that

case the revision of A should stand over till the stock of it no longer suffices for the demand; but a brief account of the settlement operations, and of the changes which they have produced or disclosed in the state of affairs described in the A volume, should be prepared by the Settlement Officer before he is relieved of his duties, for inclusion in the next decennial B volume

(5) The statistical part of the B volume should be issued with interleaved blank pages, so that those who use it can have the figures of later years written in The tables included in the B volume should be drawn up on uniform lines and should contain the main administrative statistics of the district and its tahsils or other sub divisions Those prescribed in enclosure D to my circular letter of 24th September 1902, No 2948—60, seem generally suitable for adoption, but local Governments will doubtless vary or add to these as local circumstances demand It is thought that, including the explanatory notes they should not ordinarily exceed a maximum limit of 50 pages

(6) Similarly, a limit of size for the A volumes might be fixed at about 300 pages within which compass it should be possible to comprise all really useful information Some of the present provincial gazetteers err in the direction of excessive size The history chapters for example could often be materially condensed by assuming a general knowledge of Indian history on the part of the reader and dealing only with events which occurred in or were connected with the district Where adjoining districts resemble each other in respect of climate, physical features, flora and fauna, history, distribution of castes, and economic conditions, much labour might be saved by writing a single account of these and reproducing it, with the necessary local adaptations, in each district volume. It seems desirable that in future editions the several districts should be dealt with in separate volumes

(7) The Government of India have decided that there shall be a separate Index volume in the case of the Imperial Gazetteer, and think that it would be very convenient for purposes of reference if a similar index were prepared for each series of provincial gazetteers "*

Annual reports

837 The Crop and Season Report* has already been noticed in paragraph 817 The other yearly reports which Deputy Commissioners have to prepare in connection with the subjects dealt with in this manual are—

Land Revenue Administration Report †
Report on Land Records †
Report on estates under the Court of Wards ‡

* For instructions in regard to the preparation of the A and B volumes of the district Gazetteer, see Financial Commissioners Standing Order No 43

† See parts I, II and IV of Financial Commissioners' Standing Order No 53

‡ See part F of Standing Order No 53

APPENDIX I.

Cancelled

APPENDIX II

Forest Settlements

Instructions for guidance of Forest Settlement Officers

1 The following instructions were issued in 1887 by the Financial Commissioner with the sanction of the Lieutenant Governor, for the guidance of Forest Settlement Officers in proceedings under chapter II of the Indian Forest Act, 1878 (now Act XVI of 1927) *

Preliminary proposals

Preliminary report by Collector

2 Proposals to constitute reserved forests (whether initiated by local officers or framed in consequence of instructions received from superior authority), should be submitted by Collectors to Commissioners and should be accompanied by—

- (i) a map showing the land which it is proposed to treat in this manner and also the lands adjacent thereto,
- (ii) a draft notification under section 4 of the Act,
- (iii) a report stating the rights in the land so far as known the manner in which the land has hitherto been managed and the reasons for which it is desired to convert it into a reserved forest with suggestions for the appointment of a Forest Settlement Officer and other agency, if any required for his assistance

Collector should obtain assistance from district forest officer

3 In drawing up this report the Collector should avail himself of the assistance of the district forest officer In his absence or for the proper treatment of cases of sufficient importance the Chief Conservator of Forests may be able to place a forest officer at the Collector's disposal for the purpose No detailed enquiry into rights should be made at this stage

4 It is of particular importance that the report which is the first stage

ways cities or cantonments to protect by forest growth hillsides and prevent destructive drainage to grow or protect a high class of timber The manner in which the reservation is likely to affect adjacent estates or population should also be noticed To this end the map accompanying should show not only the lands which it is proposed to reserve but also the lands adjacent thereto distinguishing inhabited sites cultivation and waste It is ordinarily difficult for an agricultural or pastoral population to modify their habits in conformity with novel demands of regulated forest management and it is for the reporting *officers to show either that the proposed reservation will not affect the con*veniences of the adjacent population or that sufficient necessity exists for restricting their conveniences

Disposal of report

5 The Commissioner on receipt of the Collector's report will forward it to the Chief Conservator of Forests for his opinion and after receipt of that officer's reply will submit the report to the Financial Commissioner with his recommendations

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* In accordance with orders contained in Punjab Government letter No 369 dated 15th August 1885 the Financial Commissioner when submitting a draft notification for the constitution of reserved and protected forests, must forward also a map to be sent on to the Superintendent of Forest Surveys.

Forest Settlement procedure

Map

6 When a proposal to constitute a reserved forest has been notified and the forest settlement officer has entered upon his duties and has issued the proclamation required by section 6 his most immediate duty is to ascertain whether he has at his command a sufficiently accurate map of the land to be reserved and if he has not then to provide one for which purposes section 8 of the Act furnishes him with the necessary authority Except for special reasons the map should not be on a smaller scale than four inches to the mile Its outer boundaries and the boundaries of all interior holdings should be carefully attested and be compared with the existing records available in the district record office

Investigation of claims *Section 7 of the Act*

7 In the meantime all claims preferred and statements of rights of which the existence is ascertained (whether from previous records or from local enquiry) should be put up in a file and be dealt with in the manner provided by the Act Claims should be clearly set out either by petition or by deposition or in both ways If rights are believed to exist and the right holders do not appear these persons should be summoned and be examined with reference to their rights Documents relied on should be filed in original or if copies are filed they should be admitted only after comparison with the originals. Where previous records are referred to the original records should be inspected, and certified extracts should be filed If claims or rights are disputed suitable issues should be framed evidence heard and findings be recorded thereon In short the Forest Settlement Officer should remember that he is armed with the power of a Civil Court and that his decision possesses a similar finality At the same time separate files need not ordinarily be made up for each claim Unless difficulties arise it will be usually sufficient to deal with all claims and rights in four files according to the classification given in the next paragraph

Section 8 (b) of the Act

Four classes of claims

8 In respect of the treatment of claims attention is directed to the following instructions —

Chapter II of the Forest Act divides the claims with which a forest settlement officer has to deal into four classes and provides a different method of treatment for each class The four classes are—

(i) claims to public or private ways or water courses ,

(ii) claims to rights of pasture or to forest produce (section 11)

(iii) claims to other rights (section 10) ,

(iv) claims relating to the practice of shifting cultivation (section 9 A).

Public and private ways and water courses.

9 The forest settlement officer must be careful to record all public an private ways and water courses existing at the time of his enquiries and in thi class of claims must be included rights to use the water of wells springs and streams situate inside the boundaries of the proposed reserve, for if the right to use such water exists it cannot be enjoyed unless a proper way of approach [illegible]

Rights of pasture or to forest produce.

10 The treatment of the second class of claims, *viz* claims to rights of pasture or to forest produce, is the most difficult part of the forest settlement officer's duty If, after the enquiry to which reference has been made in [illegible] he rejects a claim in whole or in part, he should be careful [illegible] by section 12 If he admits [illegible] completeness as is possible

Having made this record, it remains for the forest settlement officer to secure by one of the three methods laid down in section 14 of the Act the continued exercise of the rights so admitted He may either transfer the right to another forest tract under the condition stated in section 14 (*a*) or under the

the proper forest preservation of one forest area at the cost of the ultimate destruction of another forest area The forest settlement officer is under no necessity to sanction wasteful adjustments of this nature Under section 14 (c) he can r
forest in
report ar
priate sa
it is useful to bear in mind the necessity for providing that all areas burdened with rights shall be closed in rotation for reproduction For instance where
ded for in a hundred acres it is ex
a larger area subject to adequate
whole in rotation

All this is to be done to the best of the forest settlement officer's ability, and with due regard to the successful maintenance of the forest under reservation Primarily the Government is not interested in extinguishing rights of pasture or to forest produce But in the last resort and where really necessary in the interests entrusted to his charge the forest settlement officer has authority, under section 15 of the Act to expropriate these rights

11 In respect of the third class of claims the legislature leaves no option to the forest settlement officer He must either exclude from the forest the land on which these rights are claimed or he must extinguish the rights In this connection it should be remembered that provided a given area of land is expressly excluded from the reserve being clearly demarcated off, the mere fact that the reserved forest surrounds such land does not necessitate expropriation of the latter No doubt such areas (commonly known as *chak kharij*) often create difficulties in forest management and, where this is the case, the settlement officer will act rightly in expropriating them But in each case the question is for his decision

Other rights.

12 In carrying out expropriations care should be taken to comply with the rules issued by Government for the guidance of Collectors in their proceedings under the Land Acquisition Act I of 1894 For all proposed expropria
para
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graph 79 of the Standing Order

Expropriations

13 Under sectior
by a forest officer aga
under sections 10 11
months after the date of
an order under any of
forest officer for commi

Certain orders

14 As the settlement of the reserved forest proceeds if its boundaries have not already been permanently marked out, it is the duty of the district forest officer to set up permanent pillars and to test the agreement of these pillars with the final record of the forest settlement officer

Marking of boundaries.

Final record and report

15 This final record will be prepared by the forest settlement officer as soon as the decision of claims has progressed sufficiently It should comprise for each forest separately demarcated or where the forest tract is of great size, for each convenient section thereof (i) map (ii) proceeding and (iii) final notification Instructions as to the form and contents of these documents are

Form of final record.

appended, and no other paper should be added to the file, excepting only orders subsequently issued by the local Government under section 21 of the Act

Form and scope of final report

It is necessary that the local Government should, before taking this step, be

much of the proceedings as has not already been reported, and of such a nature as to satisfy the local Government that these proceedings can appropriately be confirmed It should notice specially the matters referred to in paragraphs 10 and 11 above, and also the extent to which expropriations (by agreement

See cir No 17 F. of 18th July 1885, from Government of India, Home Department

2, 4 and 6 above and also by an English abstract of the information given under heads (v) and (vi) of the proceeding prescribed by paragraphs 1 and 3 of the annexure This abstract should be drawn up with some care for it is intended to serve as a convenient guide to the officers by whom the forest will be managed If expropriations have been made, an abstract statement in the form prescribed by paragraph 79 of Financial Commissioner s Standing Order No 28 should also be added

Boundaries of reserves on rivers. *Government of India No 746 of 6th July 1893*

17 In the case of all forest reserves which are situated on the banks of a river, the exact position of which, owing to alluvion and diluvion changes, is not constant, the boundaries of the forest should be fixed by maps giving bearings from boundary pillars on the firm land The boundaries can be altered from time to time under the Act whenever a change of sufficient importance may take place It would be only after the lapse of some years that newly formed land would become of sufficient importance from a forest point of view to make it worthwhile to take it into a forest

In draft notifications under section 19 of the Act all boundaries which are liable to river action should in future be described in the manner here indicated *

Disposal of report

18 The report should be addressed to the Commissioner of the division, but it should be forwarded, unless the Collector is himself the forest settlement officer, through the Collector, who is required to add to it both his own opinion and that of the district forest officer The Commissioner, before forwarding the report to the Financial Commissioner, will proceed as directed in paragraph 5

Disposal of final record

19 The final record (paragraph 15) should not be forwarded to the Commissioner but should be deposited in the district record office at the same time as the final report is submitted These records will be permanently preserved,

Preservation of files

20 The files of claims (paragraph 7) will also be deposited in the district record office, and part A of these files should also be preserved permanently

Special proposals

Forest Settlement Officer should consider effect ... necessary

21 The preceding instructions relate to the necessary procedure prescribed under chapter II of the Indian Forest Act when it is proposed or resolved to constitute a reserved forest In carrying out this procedure a forest settlement officer must carefully limit himself to ascertaining, settling and re- ... providing for their exercise and enjoyment But much more than this is required to ... lge whether, after the events mentioned

* This paragraph was added in 1893.

in section 19 of the Act have occurred, it is, or is not, expedient to issue a notification under that section declaring the area to be a reserved forest. The result of the procedure of the Forest Act, when rights have been recorded and maintained, is to impose great restrictions on their exercise and materially to alter the previous usages of the people. To such changes, as already observed, the people are slow to accommodate themselves, and it is therefore incumbent on the Government to satisfy itself as to the probable effect which the reservation of the area and its strict management as a reserve will have upon the requirements of the neighbourhood and habits of the people This can best be ascertained by the forest settlement officer in the course of his enquiries for the settlement of rights If not ascertained and reported on by him, it would have to be separately enquired into and reported on by the Collector or other revenue officer, which would only cause delay and additional expense In addition therefore to having l [illegible]
settlement offic [illegible]
above points [illegible]
that the Government ought to make certain concessions beyond what has been awarded under the strict letter of the law, it is his duty to frame recommendations accordingly and to submit them, either in a special report or as an appendix to his final report required by paragraph 16

Two classes of recommendations usually made.

22 The recommendations would usually deal with two classes of cases, viz, those arising out of (1) the use of forest produce permitted as a matter of [illegible] strict management, but not sup[illegible] rse enjoyment; and (2) the pro[illegible] individuals, whether members of [illegible]

Use of forest produce.

23 As regards the first class, it is desirable to avoid, on the one hand, embarrassment to Government by hastily granting unduly liberal concessions which must ultimately be withdrawn in the interests of sound forest management, and, on the other hand, serious popular discontent by the harsh, illiberal or undue restriction of usages which contribute to the comfort and convenience of the adjacent population The aim should usually be some executive arrangement giving no ground for any substantial grievance, and so carefully guarded as not to infringe the recognized principles of forest management, or to suggest claims that cannot legally be sustained

Prospective wants of neighbourhood.

24 The cases of the second class are amongst the most difficult of any which occur in the course of a forest settlement. While it has been determined that the Forest Act does not justify the forest settlement officer, as such, in providing for the prospective wants of non-existing settlers or of a future and possibly more numerous generation, it is nevertheless pointed out that he might have to take into account prospective wants in particular cases, as when a claimant had established a right of such a nature that it would probably in course of time entitle him to larger benefits from a forest than he was entitled to at the time of settlement It is to be expected that in practice many intermediate cases will arise in which the forest settlement officer will rightly entertain doubts as to what should be done under the Forest Act, and what by order of Government outside the Act and by way of executive arrangement. It will be the safest plan to refer, by an intermediate report, for the special orders of Government (1) such doubtful cases, (2) any cases in which the results of a strict adherence to the procedure of the Forest Act would apparently conflict with some local popular custom, and (3) any cases in which claims are advanced or arrangements seem advisable not only for the present, but for the prospective population of any village or tract.

Reasonable requirements of people and desirability of be

25. On receipt from a forest settlement officer of any intermediate or final report of the nature required by these instructions, the Collector (when not himself the forest settlement officer), and the Commissioner of the division will pay special attention to the questions how far the awards under the Act adequately provide for the reasonable requirements of the people, and what, if any, executive arrangements, beyond the scope of those awards, it would be expedient or equitable to make in order to meet those requirements

Orders on special proposals to be noticed in record and report.

26 The orders passed by Government on special proposals submitted under paragraphs 21 to 25 should be briefly stated in the final record (*see* annexure), and, if passed before submission of the final report, should be recapitulated therein

Procedure when reservation appears undesirable.

27. If in any case a forest settlement officer in the course of his enquiries ascertains that difficulties and objections exist, which render the completion of the reservation probably undesirable, he should stay proceedings and submit a report through the Collector This report will be dealt with by the Commissioner in the same manner as directed in paragraph 5 for the original report.

Conclusion

Completion of record.

28 The attention of Collectors is directed to 3 (vii) and 4 of the ... completing the ... narily fall to ... notification ... have been ... not already ... he Collector to add them.

ANNEXURE

Instructions as to the form and contents of final records prepared by Forest Settlement Officers for reserved forests

The final record shall consist of a map, a proceeding and a copy of the final notification issued under section 19 of the Act

2 The map shall not usually be on a smaller scale than 4 inches to the mile It ... and physical features so ... pair of boundary pillars ... The map shall also dis

(i) areas surrounded by the forests, but excluded from them (*chak kharij*),

(ii) areas from which rights have been expropriated or in which they have been maintained, or in which claims have been rejected in their entirety,

(iii) public and private ways water courses springs, and watering places

3 The proceeding shall contain the following information —

(i) It shall quote the number and date of the notification issued under section 4 of the Act, and give the contents of the notification, and the name of the forest settlement officer appointed thereunder

(ii) It shall give a list of all areas (*chaks kharij*) surrounded by the forest boundaries, but excluded from the forest, thus —

Number on map	A	Village to which it appertains.

(iii) It shall give an abbreviated list of all claims rejected in entirety under sections 10 and 11 of the Forest Act, thus :—

Description of right claimed	Area in which claimed		By whom claimed, (name, with description)	Short abstract of order rejecting the claim.
	Number on map	Area		

(iv) Also a list of all rights expropriated, whether expropriated under section 10 or section 15, thus —

Description of right expropriated	Area from which expropriated		Persons expropriated, (names with description)	Short abstract of award
	Number on map	Area		

(v) [illegible]

Names and description of persons to whom rights have been awarded	Area in which awarded		*Nature of* rights, with full detail of all matters covered by section 13 of the Act.	Orders issued under section 14 of the Act for the future exercise of these rights.
	Number on map	Area		

C.—Procedure in dealing with applications for leases.

General procedure in cases of individual applications for leases.

4. If an application is made to the Collector for the lease of any waste lands owned by Government, the Collector shall, subject in every case to the provisions of rules 1—3, deal with the application in accordance with the instructions relating to the cultivation of such waste lands from time to time received by him from the Financial Commissioner

Rejection of application.

5 The Collector may reject the application at any stage of the proceedings if, with reference to those instructions or for other reasons, objections exist, in his opinion, to granting a lease of the land If the Collector rejects an application, he shall record his reasons in writing

Procedure if application is not rejected.

6 (i) If the Collector entertains the application, he shall, when necessary require the applicant to deposit the cost of demarcating, surveying and mapping the land and cause the land to be demarcated, surveyed and mapped. He shall at the same time publish a proclamation stating that the land has been applied for on lease, and that all claims and objections should be preferred within three months

(ii) The proclamation shall be published in the vicinity of the land applied for on lease, and after it has been so published, a copy shall also be posted at the Collector s office and at the office of the tahsil in which the land is situate

Report by

7. If no claims or objections are preferred within three months of the post-

particulars of the land which it is proposed to lease and the terms on which he proposes that it shall be leased and may submit the same for the orders of the authority who, under these rules is empowered to sanction the lease The report shall be drawn up, as far as may be in the form annexed to these rules

Consideration in defining area to be leased.

8 In determining the area proposed to be leased, the Collector shall see that it forms a compact block so as not to detract from the value of the surrounding land And, in case the area be bounded on one side by a canal, river or public road, the block shall ordinarily be so formed that the length of the canal, river or road frontage shall not exceed one half of the depth of the block

Term of lease

mediately controls the officers sanctioning the lease

Assessment of land revenue

10 (1) In the absence of special instructions issued by the Financial Commissioner with the sanction of the local Government for lands of the class to

of similar land in adjacent estates In applying this rule, so much of the area to be leased shall be treated as cultivated as the lessee may fairly be expected to bring under cultivation within the term of the lease

unless the Financial Commissioner for special reasons to be stated, considers that a lower rate of *malikana* should be fixed

***Malikana* to be based on land revenue and rent in other cases.**

(3) If the market value of the land or of similar land in adjacent estates is not ascertainable or approximately ascertainable the *malikana* shall be a sum based on the difference between the land revenue assessment and the renting value as ascertained under clause (1) but which shall not ordinarily be less than half the land revenue assessment. If in any case it is proposed to fix a rate of

(4) In fixing the assessment of land revenue and *malikana* in the manner above prescribed, regard shall be had to the improvements necessary to bring the land into cultivation and to the time necessary for the execution of those improvements; and the authority by whom the lease is sanctioned may, in view of these considerations exempt the lessee for a portion of the term of the lease from payment of the whole or part of the land revenue or *malikana* or both, assessed under this rule

Considerations in fixing land revenue and proprietary due

11 On receipt of the report of the Collector by the authority who, under these rules is empowered to sanction the lease that authority shall—subject to the provisions of these rules and to any instructions issued by the Financial Commissioner in respect of any case or class of cases—pass such order in respect of the refusal or sanctioning of the lease, and—in the event of his sanctioning the lease—in respect of the area, term, assessment and other conditions of the lease, as he shall think fit

Orders on Collector's report

D —Rules and conditions applicable to all leases

12 When a lease has been sanctioned by the authority appointed by these rules in that behalf, the Collector shall execute and cause to be executed a lease in Form A attached to these rules, provided that, if Act V of 1912 has been extended to an area in which leases are being granted, the provisions of that Act shall be followed

Execution of deed of lease and giving of possession.

Possession of the land shall not be given to the applicant until the lease has been executed or until the provisions of section 4 Act V of 1912 have been complied with as the case may be

13 A lessee shall in every case covenant with Government to pay all rates and cesses chargeable on the land, and also all charges (other than penalties), at any time leviable under chapter VIII of the Punjab Land Revenue Act, 1887, in respect of the land leased to him He shall also covenant to pay the price as determined in the manner hereinafter laid down of the timber and brushwood on the leased area

Rates and *cesses.*

Explanation —The words rates' and cesses in this rule have the same meaning as in the Punjab Land Revenue Act, 1887

14 If within six months of the execution of the lease having been communicated to the applicant he fails to take possession of the land or if at any time he fails to comply with any of the conditions of the lease the Collector may cancel the lease and shall report the fact to the officer by whom the lease was sanctioned

Failure to take possession

15 (i) There shall be reserved in every lease the right of Government over all rivers and streams and the right of the public to use existing thoroughfares traversing the grant There shall also be reserved in every lease all mines

Reservation of certain rights of Government

ings and quarries

(ii) The Government on its part will in every case covenant with the lessee to make reasonable compensation to him for all damage occasioned by the exercise of the said rights

(iii) And the lessee on his part shall covenant with Government that, in case of a dispute arising between the lessee and Government as to the property and rights hereby reserved or any matter incidental or in any way relating thereto, or as to any compensation as aforesaid the decision thereon in each case, of the officer empowered by these rules to sanction the lease of the land shall be considered final and binding on both parties

Trees and brushwood. 16 (i) Where trees or brushwood are found on land proposed for lease under these rules the Collector shall estimate the value of such trees or brushwood In estimating the net value the Collector shall take account of the prices which the lessee will probably be able to realize and of the probable facilities for sale and shall also make due allowance for expenses, waste and other losses likely to be incurred in the cutting removal and sale of the said produce If the Collector finds that the value which the lessee could obtain for the timber or brushwood would only equal or be less than the cost of cutting or removal nothing shall be charged for it

(ii) The Collector shall record the grounds of this estimate and the amount thereof in a proceeding, and in the same proceeding either require the lessee to pay the amount before entering into possession or fix the instalments and dates in and on which the lessee shall pay the same

(iii) In cases in which these instalments extend over a longer period than twelve months from the date of entry, the proportion of the produce actually removed by the lessee in any given year shall not exceed the proportion of the value payable within that year and in the event of the lessee's removing in any year a larger proportion the entire outstanding proportion of the amount of the estimate shall at once become due

Rights of lessee in the land leased 17 A lessee shall be entitled to sink wells make water courses plant trees build houses and otherwise improve the land and subject to the due fulfilment by him of the conditions and liabilities of the lease and to the provisions of rules 15 and 16 shall be entitled to all the products of the land but except with the sanction of the local Government previously obtained no lease of waste land shall authorize the lessee to construct a private canal for the irrigation either of the land leased to him or of any other land In granting any sanction in cases falling under this clause the local Government may attach to its sanction such other special terms and conditions in respect of the construction and maintenance of a canal and irrigation from a canal as it shall think fit

Loyalty and good conduct. 17 A The lessee shall be bound to be and to remain at all times of loyal behaviour and to render active support to the Government and its officers in any time of trouble or disorder The decision of the local Government whether this condition has been violated by the lessee shall be final and if the local Government is of opinion that the lessee has committed a breach of this condition it may resume the grant or any portion thereof either temporarily or permanently and such resumption shall not affect any other penalty to which the lessee may be liable under these conditions or otherwise

For leases carrying a promise of occupancy rights on fulfilment of certain conditions

Acquisition of occupancy rights. 18 If at the expiration of five years from the date of the lease the lessee has regularly paid all sums due to Government under the provisions of the lease, has fulfilled the other conditions of the tenancy and has brought under cultivation one-half of the culturable area held on lease a right of occupancy of the nature of and subject to the conditions attaching to, a right of occupancy established under section 8 of the Punjab Tenancy Act may, on the payment of the *nazrana* (if any) fixed by the lease be conferred on the lessee by an endorsement by the Collector to that effect on the lease

For leases carrying a promise of proprietary right on fulfilment of certain conditions

Purchase of proprietary right. 19 (i) The lessee may purchase the proprietary right of the land at any time during the currency of the lease at the full market price of the land to be fixed by the Deputy Commissioner subject to the same sanction to which the grant of the lease was subject

(ii) The lessee may pay the sum so determined, either in a lump sum or by such instalments extending over a period of not more than five years, as

the authority sanctioning the sale may fix When the whole of the purchase money has not been paid previous to the delivery to the purchaser of the deed of conveyance the purchaser shall execute a deed of mortgage to secure payment within five years of the unpaid balance with or without interest as the authority sanctioning the sale may determine The deed of conveyance shall be in form B and the deed of mortgage in form C attached to these rules They shall both be registered and the deed of mortgage shall be stamped at the purchaser s expense and both shall remain in the possession of the Deputy Commissioner until the whole of the purchase money, with the interest due thereon if any shall have been paid when the deed of conveyance shall be made over to the purchaser or his heirs or assigns the mortgage deed having first been cancelled by the Deputy Commissioner

(iii) Should the local Government consider that for special reasons the sum payable should be reduced it may reduce it to such an amount as it thinks fit

General

20 (i) On the expiry of the lease (if neither proprietary nor occupancy rights have been acquired by the lessee) the Government may resume the whole of the land or any portion of it

Procedure on expiry of lease

(ii) Failing such resumption the lessee shall be entitled to a renewal of the lease for such term and on such conditions as to the amount of land revenue and rent or *malikana* and other charges to be paid by him as the authority who sanctioned the lease may subject to the provisions of section 68 of the Punjab Tenancy Act then determine

(iii) In fixing these terms and conditions the sanctioning authority shall be guided by the rules for the lease of waste lands for the time being in force so far as these rules can be made applicable

20 A The power of the local Government to sanction alienations by the lessee of State lands has been delegated to the Financial Commissioner in all leases where it is a condition of the lease that alienation should not be made without the sanction of Government In cases in which the transfer is a *bonâ fide* attempt to arrange for the cultivation of the land without the lessee himself giving up his position as cultivator or manager the power delegated to the Financial Commissioner may be exercised by Commissioners of divisions

Power to sanction alienations by lessees

[illegible]

Readjustment of [illegible]

rate of *malikana* shall in no case exceed 12 annas per rupee of the amount of the land revenue

22 Should the lease be determined under the provisions of rule 20 the lessee shall be entitled to receive compensation in accordance with the provisions of the Punjab Tenancy Act from Government for any improvements made by him in the said land

Compensation to lessee in certain cases.

23 All orders passed b[illegible] revenue officer under these rules shall be subject to review and revision by the authorities which would review or revise his orders under the Punjab Land Revenue Act 1887

Appeal and review of orders

24 Nothing in these rules shall be held to prohibit the local Government from authorizing by general or special orders the lease of the grazing of waste land or the lease to tenants at will of the right to cultivate plots of culturable land in blocks of waste land for a single harvest only

Saving of operation of rules in certain cases.

Nothing in these rules shall be held to affect the power of the local Government to make rules for the granting of leases of plots of land along the sides of roads not exceeding ten acres in area for the purpose of providing roadside groves for the convenience and comfort of travellers

Nothing in these rules shall be taken or understood to interfere with or anywise affect the rights of Government under the Land Acquisition Act, I of 1894

Form of report on an application for a lease of Government waste land under rule 7 of the rules for the lease of waste lands in the Punjab

1. District and tahsil in which the land is situate.
2. Area and description of the land applied for
3. Present income from the land
4. Facilities for irrigation, existing or proposed
5. Name and description of applicant, with date of his application.
6. Proposed terms of lease, distinguishing—
   (a) nature of lease, whether to carry a promise of proprietary rights or of occupancy rights, or lease for the purpose of planting and maintaining roadside plantations,
   (b) duration,
   (c) annual payment,
   (d) disposal of existing timber,
   (e) other matters
7. Recommendations and orders of the Collector and revenue officers of higher classes to be entered consecutively by each officer who deals with the application

FORM A

Rule 12

This instrument of lease made the day of our Lord 193 , between the Secretary of State for India in Council (hereinafter called the Government) and *A B*, son of *C D*, caste , resident of (hereinafter called the lessee), witnesseth that, in pursuance of orders contained in a letter No , dated 193 , from the to the , and communicated to the Collecter of by the in his $\frac{\text{letter}}{\text{endorsement}}$ No , dated the 193 , in consideration of the rent herein reserved, and the stipulations herein contained and to be observed by the said *A B*, his heirs, legal representatives and assigns, Government doth hereby grant unto the said *A B*, his heirs legal representatives and assigns a lease of all the Government waste lands described in the schedule hereunto annexed upon the following conditions —

1 The lease shall be for the term of years, and shall be deemed to have commenced with effect from the beginning of the harvest, 19

2 Government *does not grant to the lessee, but hereby excepts* and reserves to itself out of, and in respect of, the said lands, all existing rights to and over all mines and minerals, coals gold washings, earth oils and quarries in, under or upon, and also all rivers, streams and water courses, and all public thoroughfares within and traversing the said lands, or any part thereof

Part II —Stipulations of the Lessee

The lessee doth hereby agree—

1 *That will pay the yearly rent reserved in two equal half-yearly instalments at on the day of and the day of the first instalment to be paid on the day of 19 .

2 That will pay when due all rates and cesses chargeable on the land and also all charges (other than penalties), at any time leviable under

* Note —Insert at the end of this clause (1), if the land is to be held rent-free for any period, and (2) the rent reserved for each period of the term of lease

chapter VIII of the Punjab Land Revenue Act 1887 in respect of the land leased to The words rates and cesses in this clause have the same meaning as in the Punjab Land Revenue Act 1887 For the purpose of determining the amount of rates and cesses payable under this clause the amount of the yearly rent above stated shall be considered to consist of rupees land revenue and rupees *malikana*

3 That will permit the officers of Government to enter on the said lands for all purposes connected with the construction maintenance or repair of new, as well as of existing thoroughfares and water courses

Provided that no compensation either by reduction of rent or otherwise shall become due to the lessee from Government by reason of any such operations

4 That will permit the officers of Government in like manner to enter and do all acts and things necessary or expedient for the full enjoyment of the rights reserved to Government to or over all mines minerals coals, gold washings earth oils and quarries in under or upon the said lands

Provided that reasonable compensation shall be made to the lessee by Government for all damage to the said lands or to any property of the lessee thereupon occasioned by the exercise of the rights herein reserved to Government to or over all mines minerals coals gold washings earth oils and quarries in under or upon the said lands The amount of such compensation shall be determined by the Collector of and the said lessee In the event of their being unable to agree upon the same, or in case of any dispute arising between the lessee and Government as to the property and rights hereby reserved to Government or as to any matter in any way relating thereto the question shall be referred by the Collector to the officer empowered to sanction the application for the lease of the said lands whose decision shall be final and conclusive between the parties to this lease

5 That will pay on account of all trees and brushwood now existing on the land described in the schedule hereunto annexed the sum of rupees

(1) before entry, or*

(2) in the instalments herein stated namely —

On the day of Rs

On the day of Rs

Provided that the value of the trees and brushwood actually removed by the said lessee in each year shall not exceed the following proportions namely—

in the year

in the year

and in the year

of the whole value of the wood and brushwood now existing on the said lands and if the said lessee removes in any year a larger proportion of the wood and brushwood on the said lands than as above stated the whole amount then outstanding on account of the sum of Rs shall at once become due

6 That will not do any act inconsistent with or injurious to any of the rights excepted and reserved to Government in clause 2 of part I of this lease and will not in any way interfere with the lawful use by the public of any thoroughfare within the said lands

7 That will duly comply with such directions as the Collector shall issue requiring him to construct boundary marks on the limits of the said lands and will keep them when erected, in good repair

8 That will not cultivate or otherwise manage the said lands or any part of them in a manner calculated to injure them permanently, or to lessen their value

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*NOTE —The alternative applicable to the case should be adopted.

in the said lands on payment to Government of a sum to be then determined by the Collector of the district at the time being subject to sanction by the officer empowered to sanction the application for the lease of the said lands

*3 That the lessee may pay the sum so determined either in a lump sum or in such instalments extending over a period of not more than five years, as the Financial Commissioner may determine provided that if the whole of the purchase money is not paid in a lump sum previous to the delivery to the said lessee of a deed of conveyance of the said lands he shall execute a deed of mortgage to secure payment within five years of the unpaid balance with or without interest as the Financial Commissioner may then determine and that both the deed of conveyance and the deed of mortgage if any shall be registered at the expense of the said lessee and that the deed of mortgage if any, shall be stamped at his expense and that both deeds shall remain in the possession of the Collector of the district until the whole of the purchase money with the interest due thereon if any shall have been paid

Clauses applicable to all leases

4 That if the lease be determined under the provisions of part III, clause 2 of this instrument or if on the expiry of the lease Government decides that it shall not be renewed the lessee shall be entitled to receive from Government compensation for any improvements made by in the said lands Such compensation shall be assessed in the manner provided by the Punjab Tenancy Act for the payment of compensation for improvements effected by occupancy tenants The amount of such compensation shall be determined by the Collector of and the said lessee In the event of their being unable to agree upon the same the matter shall be referred by the Collector to the Financial Commissioner whose decision thereon shall be final and conclusive between the parties to this lease

5 That if at the expiration of the term of the lease a settlement of land revenue shall be in progress in the district of and the lessee continues in possession with the consent of Government all the terms of this lease shall in the absence of express agreement to the contrary be deemed to continue in force until the conclusion of the settlement proceedings †

6 The lessee shall be bound to be and to remain at all times of loyal behaviour and to render active support to Government and its officers in any time of trouble or disorder The decision of the local Government whether this condition has been violated by the lessee shall be final and if the local Government is of opinion that the lessee has committed a breach of this condition it may resume the grant or any portion thereof either temporarily or permanently and such resumption shall not affect any other penalty to which the lessee may be liable under these conditions or otherwise

Interpretation

In this instrument the term lessee means and includes the said lessee, his heirs and his or their legal representatives and assigns

The term Government means and includes every person duly authorized to act for or represent the Government of the Punjab in relation to any matter or thing contained in or arising out of the lease

In witness whereof the said parties have hereunto set their respective hands and seals the day and year first above written

Signed sealed and delivered by the Collector of district acting under the orders of the Commissioner of or of the Financial Commissioner Punjab (as the case may be) on behalf of the Secretary of State for India in Council } Collector of district

Signed sealed and delivered by the said in the presence of witness } Lessee

---

* Note —The form applicable to the lease should be adopted

† This clause is only to be used when the lease is for the term of settlement

Schedule to form A, part I

Description and boundaries of lands hereinbefore leased—

acres roods poles (equal to ghumaons kanals marlas) of land in mauza , tahsil , district .

Bounded—On the north by
„ south by
„ east by
„ west by

NOTE —If an endorsement be made on this lease by the Collector under rule 18 it should be to the following effect, *viz* —

Under the provisions of part IV, article 2 (occupancy) of this lease the lessee has received from Government a right of occupancy in the leased lands of the nature of and subject to, the conditions attaching to a right of occupancy established under section 8 of the Punjab Tenancy Act, 1887

(Signed) A B ,
Collector

FORM B

Rule 19 (*ii*)

THIS Instrument of Conveyance made the day of in the year one thousand nine hundred and between the Secretary of State for India in Council (hereinafter called the "grantor) of the one part and , son of , resident of , in the district of the Punjab (hereinafter called the ' grantee ') of the other part

Whereas the grantor did, by an Instrument of lease made between the parties hereto and dated the day of 193 , grant a lease for a period of years unto the grantee of the lands therein described and leased, and more particularly described in the schedule marked A and delineated and coloured red in the map or plan marked B

And whereas the grantee has duly fulfilled the terms and conditions of the said lease and is now desirous of purchasing the proprietary rights in the said lands in accordance with the terms of the said lease

And whereas the Collector of the district has fixed upon and determined the purchase money to be paid by the grantee at the sum of rupees ;

And whereas has on the day of 193 , approved of and sanctioned the sale of the said lands to the grantee on payment of the said sum of rupees ,—*vide* letter No , dated the , from the to the , and communicated to the Collector of in a letter No , dated the , from the , subject nevertheless to the terms conditions and reservations hereinafter appearing

Now therefore this Instrument witnesseth that in consideration of the sum of rupees , paid by the grantee to the grantor (the receipt whereof the grantor hereby acknowledges) and of the covenant terms and conditions hereinafter contained and by the grantee to be observed and performed, the grantor doth hereby *grant and convey* unto the grantee the said lands,

containing by admeasurement acres more or less and more particularly described in the schedule marked A and delineated and coloured red in the map or plan marked B hereunto annexed to *have* and *to hold* the said lands unto him the grantee his heirs and assigns for ever absolutely and in full proprietary right together with all trees underwood and agricultural produce of the said lands but subject nevertheless to the reservations terms and conditions hereinafter set forth And the grantor for himself his successors and assigns and the grantee for himself his heirs representatives and assigns do hereby respectively covenant and agree to abide by each and all of the terms conditions and reservations hereinafter set forth that is to say—

e said lands
any building
ry engineers
the grantor
or his assigns at all times to enter upon any part of the said lands and to do all acts and things that may be necessary or expedient for ensuring to the grantor or his assigns full and perfect enjoyment of the rights hereby reserved Provided always that the grantor and his assigns shall make reasonable compensation to the grantee his heirs representatives assigns lessees or tenants for all damage directly occasioned by the exercise of the rights hereby reserved

water and other ease
are hereby expressly
grantee and the said
terfere with any such
rights of way or water or other easement

3 The grantee shall regularly and from time to time pay all general taxes and all local taxes rates and cesses lawfully imposed on or payable in respect of the said lands or of proprietary rights therein and the land revenue demand now or for the time being lawfully assessed on the said lands (the present assessment being rupees per annum) and any arrear of any such tax rate cess or land revenue at any time existing shall without prejudice to any other power hereby conferred on or right hereby reserved to the grantor be forthwith recoverable from the grantee as a first charge upon the lands hereby granted according to the law and practice for the time being in force regarding the recovery thereof

reserved to the grantor) to cause such boundary marks to be erected or repaired as the case may be and to recover the cost incurred thereby from the grantee as a first charge upon the lands hereby granted in the manner for the time being provided for the recovery of an arrear of land revenue

5 The grantee shall maintain at his own cost such establishment for the purposes of police conservancy and the like in respect of the said lands as may be required by the general rules for the time being in force in that behalf And in the event of any default at any time in regard to the requirements of this condition on the part of the grantee it shall be lawful for the Collector of the district or other proper officer (without prejudice to any other

power hereby conferred on, or right reserved to, the grantor) to appoint and maintain such establishment, and to recover the cost thereof from the grantee as a first charge upon the lands hereby granted in the manner for the time being provided for the recovery of an arrear of land revenue or in the said rules

6 In the event of the grantee or any person holding the lands hereby granted or any part thereof from or under him committing any breach of any of the terms or conditions of this grant, or causing or permitting such breach

without payment of any amount whatsoever by way of price, compensation, or damage to the grantee or to any other person whomsoever, in respect of any improvements which he or they may have made or of any buildings, wells, materials, or other things existing in or upon the said lands or any part thereof at the time of such revocation of this grant and resumption thereof

7 In the event of any dispute or disputes arising between the grantor and the grantee and their successors representatives and assigns or any of them as to the property and rights hereby reserved, or as to any matter incidental or in any way relating thereto, or as to any compensation payable under this deed of grant or as to the true intent or purport thereof or of any part or clause thereof the decision in each case of the Financial Commissioner of the Punjab for the time being (or of such other officer as may succeed to the duties of the Financial Commissioner) shall be final and binding on both parties

In witness whereof the undersigned have subscribed their names on the dates hereinafter mentioned, respectively

Signed sealed and delivered by the Deputy Commissioner and the Collector of district for and on behalf of the Secretary of State for India in Council acting in the premises by order of His Excellency the Governor of the Punjab this day of 193 .	—————— Deputy Commissioner and Collector of the district
Signed, sealed and delivered by this day of 193 in the presence of— 1 —————— —————— 2 —————— ——————	——————

FORM C

Rule 19 (ii)

This deed of mortgage made the* day of our Lord 193 betw

day

C D.,

the

ed by the said deed remains due and owing to the Secretary of State for India in Council, the above named grantor, and the said *A B* doth hereby for himself, his heirs and assigns agree with the said grantor, his successors and assigns that he will pay the said principal sum of Rs , together with simple interest calculated upon the whole or such portion thereof as shall from time to time remain unpaid at the rate of per cent per annum

* The date of signature by the mortgagor.

from the day of* 193 by five annual payments of not less than† and in addition thereto of interest calculated as aforesaid up to the date of each payment made the first of such payments of principal and interest to be made on or before the day‡ of next ensuing and the remaining payments on or before the same day in each of the four succeeding years or until the whole principal amount secured with interest thereon shall have been paid at the office of the Collector of the district at , and for the further and better securing of such payments the said *A B* doth hereby grant and convey to the said grantor his successors and assigns

the

f the

And this deed further witnesseth that the said *A B* doth hereby agree that in case default shall be made by the said *A B* his heirs or assigns in any one or more of the payments hereinbefore agreed to be made the whole of the

also with or without such entry at any time or times and without any further consent on the part of the said *A B* his heirs or assigns to sell the said lands or any part thereof by public auction and at any such sale to buy in the said lands or any part thereof with power also to execute deeds give effectual receipts for the purchase money and do all other acts or things for completing the sale which the said grantor his successors or assigns shall think proper and also to seize and make sale by public auction of the whole or any part of the movable property of the said *A B* his heirs or assigns that may be found upon the lands hereby mortgaged or else wheresoever and it is hereby agreed and declared that the said grantor his successors and assigns shall stand possessed of the monies arising from any such sale in trust first to pay and retain the costs and expenses attending such sale or otherwise incurred in relation

monies which shall

to pay the surplus

for the time being

In witness whereof the undersigned have hereunto subscribed their hands

A B (purchaser)

Signed in presence of X Y witness this day of 193

R M

Collector of district on behalf of the Secretary of State for India in Council

Signed in presence of Y *Z* witness this day of 193

* The date on which payment of the first half of the purchase money was completed
† One tenth of the purchase money
‡ The anniversary of the date above written.

(2) *Executive instructions regarding temporary cultivation of Government waste lands*

The practice of granting licenses to cultivate Government lands for one harvest only has prevailed to a considerable extent in the districts of Shahpur, Jhang, Multan, Montgomery and Dera Ghazi Khan and small areas in other districts have been leased from time to time on these terms As such leases rendered the grazing management of Government r [illegible] more difficult, and were apt eventually to give rise to troublesome claims which lessened the value of the Government property involved and interfered with plans for its improvement, certain restrictions were placed upon the grant of such leases in districts where the lands ordinarily leased were likely to be commanded by canal projects In 1917 a conference was held to consider the question of increasing the exportable surplus of wheat and other food crops, and as a result of this conference all the restrictions previously imposed were temporarily relaxed and Collector were authorized to give out for cultivation of food crops only, on leases for periods not exceeding 2 years all Government waste lands under their control, with the exception of the Lower Bari Doab colony lands, for which the colonization officer was directed to make arrangements under the colony rules It is [illegible]

plots of culturable Government waste lands are issued —

Explanation.—Leases may, at the discretion of the Collector be given for grazing, instead of cultivation

(1) These rules apply to all unoccupied State lands not in process of colonization which are under the control of Collectors whether irrigable by canals or not Tracts actually in process of colonization and the canal colonies, whether complete or in process of colonization, are exempted from the operations of these rules Temporary cultivation in them is governed by special orders issued from time to time

(2) Collectors may make arrangements for the temporary cultivation of State lands mentioned in rule (1) above

(3) [illegible] year, [illegible] sioner [illegible] of any [illegible]

(4) Every lease should state as precisely as possible the land to which it [illegible] nd the period for which [illegible] shall not cut or injure [illegible]

(5) The Collector may charge any fee, not less than one rupee per acre, which will, in his opinion, secure a fair rent for the use of the land, and which has been approved by general or special orders of the Commissioner. It will be in his discretion subject to the orders passed from time to time by the [illegible]

(6) In the case of unauthorized cultivation double rates may be charged at the discretion of the Collector

* Punjab Government memo No 9317 Rev of 24th March 1920

(7) On the expiry of the lease, the land should be resumed, but the Collector may regrant the lease for the term mentioned in rule 3 above on such conditions as to the amount of rent and other charges as he may determine In all cases in which a lease is regranted, it will be necessary for the Collector concerned so to administer the rules as to check the growth of any expectation of an ultimate permanent tenure hereafter in favour of the temporary lessee. In order to guard against the contingency of claims against Government founded upon continuity of lease or possession, a period of at least one day, during which the relation of landlord and tenant shall not be in existence as between Government and the lessee, shall intervene between the expiry of the period of any lease and the commencement of the period of the lease by which the land is regranted, and the new lease shall expressly declare that at the time of its commencement the relations of landlord and tenant which existed under the expired lease had ceased to exist

(8) All fees leviable and other charges if any, should be made payable one month in advance of the date fixed for the payment of the first instalment of the land revenue of that harvest

APPENDIX IV.

OTHER ALIENATIONS OF STATE LANDS.

(See paragraph 785)

[LAND REVENUE AND SETTLEMENTS]

READ again—

Financial Department resolution No 557, dated 25th January 1870

Home Department circular resolution No 229 39, dated 27th April 1870

Financial Department resolution No 1452, dated 23rd June 1870

Home Department circular No 427—36 dated 4th July 1870

RESOLUTION —In the resolutions quoted above it was ruled that the sanction of the Government of India should be obtained to the alienation of all Government land [illegible]

small plots of escheated land for the benefit of local funds has not been duly sanctioned, it must be considered subject to the above restrictions

2 Several local Governments and Administrations having represented the inconveniences arising from a strict adherence to these orders, the Governor-General in Council has been pleased to modify them as follows

3 Lands to be disposed of will necessarily divide themselves into two classes —

First —Those which are the property of the State,

Second —Those which, under competent authority, have been constituted the property of a municipality or other local body

4 Lands of the first class may be disposed of in various ways—

First—By sale at full market value ;

Second—By sale on favourable terms—

to a public body or association, or to an individual for a public purpose,

Third—By gift or grant to—

(a) a public body or association, or to an individual for a public purpose,

(b) private individuals in remuneration for public services to be performed,

(c) private individuals for their private benefit, without reference to future services

5. As regards lands falling into the second of the above classes, which have been under a competent authority constituted the property of a local body, the Government of India will exercise no interference

It will be the duty of local Governments and Administrations to satisfy themselves that the lands in question have been transferred under proper authority, and, this having been ascertained, the sanction of the local Government or Administration will be sufficient for the disposal of the lands

* See Punjab Government endorsement No 241, dated 10th February 1872, and the Financial Commissioner's circular No III dated 1st March 1872

6 As regards lands, the property of the State, such of them as are governed by the rules for the grant of waste lands will continue to be dealt with under the rules on this subject in force for the time being

7 As regards lands, the property of the State, other than waste lands, which are sold for full value no reference to the Government of India need be made where the full value does not exceed Rs 25,000 Up to this amount the sanction of the local Government or Administration will in all cases be sufficient The amount realized by the sale of the land should invariably be credited to provincial revenues, and the sale should be duly noticed in the proceedings of the local Government or Administration

8 As regards the sale of lands on favourable terms for a public purpose, in no case should the recipient pay less than half the full market value of the lands granted, and whenever such full value exceeds the sum of Rs 25 000 the sanction of the Government of India should be previously obtained The amount realized by the sale should in all cases be credited to provincial revenues, and the sale should be noticed in the proceedings of the local Government or Administration

9 As regards the gift or grant of lands, the previous sanction of the Government of India should be obtained in cases where the value of the grant exceeds Rs 10,000, when given as a site for the construction of Government schools, hospitals, dispensaries, or other public works at the cost of recognized local funds, where it exceeds Rs 1,000, when given for any other public purpose, or to a private individual for services to be performed to the State,* or where it exceeds Rs 500, when the services are to be performed to the community, and in *all* cases of grants to individuals for their private benefit, irrespective of any services to be performed

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Extract from the proceedings of the Government of India, in the Department of Revenue, Agriculture and Commerce, No 1—619 dated 31st August 1877

READ again—

Resolution No 1—145 dated the 6th February 1872 prescribing certain rules in respect to the alienation of Government land

RESOLUTION —His Honour the President in Council observes that the resolution read in the preamble makes no express provision for the case of [illegible] benefit without [illegible] nour in Council [illegible] coming under [illegible] 4 of the resolution, and that, as in the case of gift or grant to individuals for their private benefit the sanction of the Government of India must be obtained to all such alienations

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Resolution No 21—223 12 of the Government of India, Department of Revenue and Agriculture dated 7th October 1895

The Government of India have lately had under consideration the principles which should be followed in the alienation and assessment of town sites which are the property of Government and with a view to ascertain existing practice enquiry was made from the several provinces regarding the terms on which such land is usually leased or sold

The replies cited in the preamble show that the present practice varies considerably from province to province and is not always in accord with the principles which the Government of India desire should be followed.

* This does not refer to cases in which the local Governments may have been separately authorized to dispose of lands under special rules sanctioned by the Government of India

2. Where Government property in any town or station consists merely of isolated plots the areas of which are inconsiderable, effective control by Government is difficult, and the income derived is seldom commensurate with the trouble of management In such cases the Government of India desire no change in the existing practice and leave the treatment of these plots to the discretion of local Governments who may decide what shall be the maximum area of plots that may continue to be dealt with under existing rules for the management of *nazul* and similar lands included in towns and stations Where however, under the practice of the province, town lands are assessed to land revenue, these lands should ordinarily form no exception to this rule, even though sold outright by Government

3 But where Government is the owner of the land upon which a town or station stands, save in so far as it has been already alienated, or where there are plots of land belonging to Government of larger area than is contemplated in the preceding paragraph, the interests of the State are of importance, and it is desirable that the main principles upon which they are dealt with should be uniform The objects which these principles should secure are threefold first that the grantee should in all cases acquire such security of tenure as to afford a sufficient inducement for the expenditure of capital in building and improvement, secondly, that the source of revenue should in no case be permanently alienated, but that a rent should in all cases be fixed, subject to periodical revision, and, thirdly, that the amount of rent to be taken at each revision should be subject to such limitations as may be necessary to secure the grantee in his property

4 *The Government of India leave it to local Governments and Administrations to decide whether sites should be sold, or leased, or granted on a permanent occupancy right But if they are leased, the lease should not ordinarily be for a shorter period than thirty years, and should in all cases provide for renewals up to a minimum period of ninety years, if not in perpetuity

5 Ground rent should in all cases be fixed It should not ordinarily

inconsistent with their terms

**Extract from Government of India letter No 1504, dated 7th July 1897, from the Secretary to the Government of India, Department of Revenue and Agriculture, to the Chief Secretary to Government of Bombay*

2 In reply to paragraph 2 of your letter I am to say that the intention of paragraph 4 of the resolution was to leave it to local Governments to decide the precise form of tenure which should be created when town sites, the property of the State, are disposed of Such tenure might either take the form of (1) the full proprietary right, subject to periodical revision of the land assessment (2) a leasehold tenure for a term of years, with or without a right to renewal, the incidents of which would be regulated by the instrument of lease or (3) a statutory occupancy tenure, some or all of the incidents of which would be regulated by the local law applicable to such tenures in force for the time being It was not intended to imply that sale should be resorted to only in the case in which the proprietary right was disposed of It is of course open to a local Government to allow the local authority to put up for sale, or to grant subject to a premium, a lease of or a right of occupancy in town land plots belonging to the State which it is proposed to make available for building purposes

[illegible]

small country towns for which there is no keen competition, and respecting which prescriptive or equitable claims on the part of individuals to some reduction from the full competitive rent frequently exist They agree with the view expressed in your letter that in towns where other conditions exist and sites are valuable the restriction of the ground rent to one third of the full competitive rent is either inapplicable, or, if adopted, should be accompanied by provisions requiring an initial payment to be made by the grantee for the remainder of the value In the special cases of Bombay and Karachi dealt with in the last paragraph of your letter, they have no objection to the arrangements already decided on in the case of Bombay, or to those proposed for Karachi

APPENDIX V.

DESTRUCTION OF LOCUSTS

Measures to be taken Circular No 9 of 1881

Financial Commissioner's circular letter No. 4147 of 2nd July 1891

1 On the appearance of locusts in a district immediate measures should be taken for ensuring—

(1) that the laying and hatching of eggs shall be reported without delay,

(2) that measures shall be taken promptly for the destruction of eggs and of the young nymphs when hatched

Nothing better [illegible] and *kanungos'* [illegible]

[illegible] *patwari* and his [illegible] of eggs, and the [illegible] port to the field [illegible] k of destruction the *tahsildar* and *naib tahsildar* should be held responsible within their res [illegible] *aildars* [illegible] when [illegible] other [illegible] the young locusts should be attacked and followed up till destroyed not merely by the men of the estate in which they [illegible]

[illegible] necessary to secure the end in view

He may at the outset have to contend with a fatalistic spirit on the part of the people But when they see that their officers are personally exerting [illegible]

Attitude of the people

2 The agriculturists are usually apathetic on these occasions But experience shows that when the authorities exert themselves and act with spirit, the people are prepared to follow them, and sometimes even to evince enthusiasm in the work

Remuneration not usually to be given.

3 As a rule, no money payments should be made It is the duty and the interest of the people to protect their own crops from the depredation of locusts [illegible] local [illegible] distant from any village rewards [illegible]

Reports

4 The appearance of locusts in a district and the measures taken for their destruction, should be reported to the Financial Commissioner, Development and the Director of Agriculture in the form below. It should be borne in mind that a special report should not be made in every case when a flight is seen, but only when damage to crops to any considerable extent is caused by the insect In all other cases it will be sufficient to notice in the weekly weather and crop reports submitted to the Director of Land Records that locusts have been observed

4 A Individual efforts in a district are inadequate ... of the magnitude of the desert locust swarms It ma[illegible] sary in cases of severe infestations to set up a special In the absence of such an agency the Commissioner of coordinate efforts in the different districts of his division The Director of Agriculture and his staff or any special officers who may be appointed will supply technical advice broadcast information and wherever possible supply apparatus and equipment

Report regarding locusts

1	2	3	4	5	6
DISTRICT	Date of appearance	Direction of flight	Damage done	Measures taken	REMARKS (Noting extent of flight and whether eggs were deposited &c)

5 A brief account of the habits of locusts and instructions for their destruction are appended

(1) From reports and observations made it seems that in the Punjab as a rule locusts appear about June or July (though there have been cases of their [illegible] they then [illegible] the young

In habit locusts are diurnal generally frequenting high dry places closely grazed pastures meadows and grain fields after subsidence of the rains

Oviposit ng

[illegible]

part The female

in high dry ground tolerably compa[illegible] much resorted to for oviposting [illegible] of holes but yet abound in eggs The locusts have been known to deposit their eggs in the sandy beds of rivers and after the subsidence of the rains and the river floods and when the usual hatching time has arrived the young have issued from the sandy beds in myriads

Collecting

(3) One of the most rapid ways of collecting the eggs, especially where they are numerous and in light soils, is to slice off about an inch of the soil with a spade, or such like instrument, then carry the eggs to one spot, and, after separating them from the sand, to bury them in deep pits, the ground being packed hard on the surface

Harrowing

(4) Harrowing is an effectual mode of destroying the eggs and preventing future injury wherever it is available The object should be not to stir deeply, but to scarify and pulverize as much as possible the soil to about the depth of an inch The breaking up of the mass and exposure of the individual eggs to the desiccating effects of the atmosphere effectually destroys them, and when to this is added the well known fact that thus exposed they are more liable to destruction by their numerous enemies, we see at once the importance of this mode of coping with the evil

Ploughing

(5) This is another effective way of destroying the eggs The ground may be ploughed up repeatedly, ploughing 5 or 6 inches deeper if possible

Financial Commissioner's circular letter No. 5155 of 24th August 1897.

When eggs are deposited in standing crops measures should at once be taken to destroy the eggs without regard to the consequent damage to the crops

Hatching

(6) As the hatching period approaches (about three weeks after the laying of the eggs), the eggs become more plump and pale, and the dark eyes of the embryo are distinctly visible within the shell, now somewhat transparent. The ova hatch in about three weeks after they are laid All the eggs in a given mass burst very nearly at one and the same time The young escape one after the other through one small hole, which in the field is scarcely noticeable

The period above noted as that which elapses between the laying of the eggs and the appearance of young locusts is liable to variation Under the influence of more than ordinary heat and moisture eggs have been observed, in the Punjab, to hatch out in about a fortnight Therefore whenever locusts appear, careful observations should be taken at once to ascertain as soon as possible whether eggs have been laid and young are being hatched out, and the necessary measures for their destruction should be carried out directly the eggs are discovered

Young or unfledged locusts

(7) The time from hatching till the wings appear varies from three to eight weeks The young locusts display gregarious instincts and congregate in immense numbers, sometimes vast numbers will be found collected in a small space of brushwood and short grass. After their first transformation (and they go through five changes) their voracious appetites seem to come to them. They [illegible]
they [illegible]
mense [illegible]
places cannot hold them

T[illegible]
chang[illegible]
It is [illegible]
rapid [illegible]
a hundredfold by each successive generation

Destruction of the young or unfledged locusts.

(8) Various methods have been employed in the destruction of the young locusts, such as burning, crushing, and trapping ; but the last obtains most favour. When they are not above a week old, a trench of 6 or 8 inches wide [illegible] ng the [illegible] ricate [illegible] naking [illegible] with perpendicular sides, or dug wider at the bottom than at the top, offer effectual barriers The young locusts tumble into such a ditch, and accumulate and die at the bottom in immense number In order to keep the main ditch open, it may be necessary to dig pits or deeper side ditches at short intervals, in which the locusts will accumulate and may be buried, the earth being well pressed down Where the soil is tenacious, and water can be let into the ditches so as to cover the bottom, they may be made shallower and still be effectual The efficacy of the ditch depends not so much on the inability of the young locusts to jump or scale it, as [illegible] the bottom of the ditch [illegible] by constant effort and [illegible]

The destruction of the young can only be carried out successfully during the period that the locust is unable to fly, and this period is very short, being at the most only six weeks or two months

In addition to the above, other devices have been resorted to ; such as the use of nets or seines, or long strips of muslin, calico, or similar materials [illegible] ed in [illegible] that [illegible] they [illegible]

It may be added that in the cold weather the swarms are often unable to move in the morning from numbness, and under such circumstances the destruction of even full-grown swarms is easy

Instructions for destruction

(9) The complete destruction of the full grown or winged insects when they invade a country in large swarms is impossible Attempts have been made to frighten them away by firing guns, crackers, beating drums, and by rattling, tinkling noises, but, if disturbed in this way, they simply pass on to the next field Experience shows that the only effectual means of coping with the evil is by the destruction of—

(1) the eggs ;

(2) the young or unfledged insects

The eggs are laid in masses, just beneath the surface of the ground, seldom to a depth of more than one inch Where immense swarms have settled, scarcely an inch of the soil for miles can be stirred without exposing the eggs. The means commonly employed in destroying the eggs are—

(1) Collecting, (2) harrowing, (3) ploughing or digging, (4) flooding, (5) trampling.

ALPHABETICAL INDEX

OF THE

LAND ADMINISTRATION MANUAL.

A

C—*concluded.* Paragraphs.

D.

E.

G—*continued.* Paragraphs.

J—concluded

L—*concluded*

M

N

Paragraphs

O

P

P—*concluded*

Q

R

R—*concluded* Paragraph*

S

T

V

W

D

DAG .. A tract of land, same as *chal*, q v

DAKHILA ..

DARBAR .

DARYABANNA

DASTAK .

DEODAR A tree, Cedrus deodar

DHAL BACHH

DHAMMAN

DHAR KALAN

DHARAMSALA . [illegible] which charity is exercis d

DOHLI .

F

FAKIR . A religious mendicant

FARASH . A tree, Tamarix articulata

FARD DHAL BACHH .. Statement showing revenue realizable from each hold ng.

FARD LAKHIRAJ . Statement of revenue free holdings

G

GARANDA . [illegible]

GHAIRMUMKIN .

GHAIR TIRNI GUZAR ..

GIRDAWARI .

H

HADD SIKANDRI . Same as daryabanna, *q v*

HAQ UL TAHSIL .. Fee realized from assignees of land revenue for collection of the revenue payable to them

HALKADAR A rural notable in charge of a circle of villages, (*see* paragraph 346)

HARMAL . A plant, Peganum harmala

HUKA . An Indian pipe

I

ILAKADAR A rural notable in charge of a circle of villages (*see* paragraph 346)

INAM . A cash allowance paid out of the lan l revenue generally in return for spec fic duties

INAMDAR [illegible]

INKARI

ISTAMRAR .

ISTAMRARDAR

J

JADID . . See *banjar jad d*

JAGIR .. . [illegible] ments which [illegible] or ex rulers

JAGIRDAR

JAL

JAMA Lan l revenu e d mand

JAMABANDI [illegible]

JAND .

JANGAL ..

JANGAL-TARASHI .

JARI ..

JINSWAR

K.

KACHA	Not lined with masonry, applied to a well. See also *tigha*.
KACHMACH	Same as *daryabanna*, *q. v.*
KACHNAR	A tree, Bauhinia variegata
KADIM	See *banjar kadim*
KAIL	A tree, Pinus excelsa
KANGAR	A tree, Pistacia intergerrima
KANKAR	Nodules of lime used for metalling roads
KANKUT	Appraisement of crops—realization of landlord's share of produce in cash after appraising its amount and value
KANUNGO	Supervisor of *patwaris*
KARIL	A bush, Capparis aphylla
KASUR	Assignment of a fractional share of the revenue to a local magnate (*see* paragraph 137)
KHAIR	A bush, Capparis aphylla. In north west Punjab, a tree, Acacia catechu
KHALI	Not under crop. For exact technical meaning, see paragraph 355
KHALSA	Revenue not assigned to a private individual
KHAM TAHSIL	Direct management of an estate by Government, (*see* paragraph 531)
KHANKAH	A Muhammadan shrine
KHARABA	Failed, applied to crops which fail to ripen
KHARIF	The autumn harvest
KHARIJ PARTA	Not assessed to land revenue
KHASRA GIRDAWARI	Crop inspection register
KHATAUNI	(*a*) Village statement showing demand and collections of sums paid in by headmen (*b*) A statement of the demand on a holding.
KISHTI BANNA	Same as *daryabanna*, *q. v.*
KISHTBANDI	Land revenue roll
KULAR	Same as *kachnar*, *q. v.*
KURK TAHSIL	A coercive process by which an estate or holding is attached on account of arrears of land revenue, (*see* paragraph 526)

L.

LAKHIRAJ	Assigned, applied to land of which revenue is assigned to a private individual
LAMBARDAR	Village headman
LAMBARDARI	Relating to a *lambardar*, *q. v.*
LANA	A salsolaceous plant

M

MACHCHI SIM	Same as *daryabanna*, *q. v.*
MADAD MA'SH	A grant of means of subsistence, an assignment for support of a religious house
MAFI	An assignment of land revenue—the smaller grants and those not made to [illegible] of distinguished [illegible] compare *jagir*
MAHAL	[illegible]
MAHDUDA	[illegible]
MUKADDIM	[illegible]
MALBA	[illegible]
MALGUZARI	Paying revenue assessed
MALIKANA	Proprietary fee or due
MAUZA	Villages, (*see* paragraph 204)
MUSTAJIR	A farmer of land revenue

N

NAHRI	Irrigated from a canal
NAIB TAHSILDAR	The deputy or assistant of the *tahsildar*, *q. v.*
NAKSHA JINSWAR	Crop statement
NAUBARAMAD	[illegible]
NAZUL	[illegible]

P

PACHOTRA	.. A surcharge of 5 per cent on the revenue paid to village headmen
PACVAND	.. A custom of inheritance under which sons by different wives each take the same share of the property, division being *per capita* Compare *chundavand*
PANCHAYAT	.. A village council
PARCHA	.. A statement showing demand, etc , on a holding
PARGANNA	.. A sub division of a tahsil or district
PARTA ..	. Land revenue rate
PATTI ..	.. A sub division of an estate
PATTIDAR	. The holder of one or more horseman's share in a Cis Sutlej *jagir*, (see paragraph 104)
PATTIDARI JAGIR	.. A Cis Sutlej *jagir* held by fraternities, division being by horsemen's share, (*see* paragraph 104)
PATWARI	.. The village registrar and accountant
PHOG ..	. A bush, Calligonum polygonoides
PHULAHI	.. A tree, Acacia modesta
POWINDAH	.. Name of a group of Afghan tribes Powindahs are great camel owners and traders

R

RABI ..	.. The spring harvest
RAKH ..	.. A forest preserve
ROZNAMCHA	. Diary

S

SADR TIRNI GUZAR	.. Leading men entrusted with the duty of collecting *tirni*, (*see* paragraph 770)
SADR WASIL BAQI NAVIS	District revenue accountant
SAILAB ..	.. Flooded or kept permanently moist by a river
SAJJI ..	.. Name of several saline plants on which camels browse
SANAD ..	.. A deed of grant
SANATHA	.. A bush, Dodonæa viscosa
SARBARAH	.. Substitute for a village headman
SARDAR ..	.. A title of honour, a chief.
SHAMILAT DEH	.. Common land of a village
SHAHJAHANI BIGHA	.. See *bigha*.
SIYAHA ..	.. Daily cash account of tahsil
SIYAHANAVIS	.. Clerk responsible for writing up the *siyaha*.
SOWAR ..	.. Horseman

T.

TAHSIL ..	.. A sub division of a district
TAHSILDAR	.. Officer in chief executive charge of a tahsil
TAHVILDAR	.. Treasurer of a tahsil
TAIUL ..	.. Royal domain, the Emperor of Delhi's private estates
TAKAVI ..	.. Loan for agricultural purposes given by the State
TAKIYA ..	.. A small building occupied by a Muhammadan fakir, who supplies a *huka* and water to travellers
TALBANA	.. Charge for serving a summons
TARADDADI	.. Ploughed but not sown, (*see* paragraph 356)
TARAF ..	.. Sub-division of an estate
TAUZIH ..	.. Monthly account of land revenue collections
THANA ..	.. Police station
TIRNI ..	.. Dues charged for grazing in waste land belonging to the State
TIRNI-GUZAR	.. Paying *tirni*
TRIHAI ..	.. Portion of a forest closed against exercise of rights, (*see* paragraph 739)
TUMANDAR	.. Chief of a Biloch tribe

U

UFTADA ..	.. Fallen in, not in use, (of a well)

V.

VESH ..	.. Periodical distribution of land among proprietors.
VYAH ..	.. Marriage with full ceremonial rites.

W.

WAJIB-UL-'ARZ	.. Village administration paper.
WARPAR ..	.. Rule of fixed boundaries in riverain estates.
WASIL BAKI NAVIS	.. Revenue accountant

Z.

ZAID RABI	.. Extra rabi consisting of late spring crops such as tobacco or melons sown about April
ZAIL ..	.. A group of villages in charge of a zaildar.
ZAILDAR ..	.. A man of local influence appointed to have charge of a *zail*.
ZAILDARI JAGIR	.. A description of *jagir* in Cis Sutlej States in which the *jagirdars* were dependants of a *Sardar* holding a " large estate ", (see paragraphs 103 and 104).
ZAMINDAR	.. Landed proprietor—shareholder in estate.

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